

**LAKE GEORGE VILLAGE
26 OLD POST ROAD
PLANNING BOARD – SPECIAL MEETING
MEETING JUNE 26, 2019
6:00 PM**

Board members present: Carol Sullivan (Chair Person), Patricia Dow, Dean Howland, Walt Adams

Board members absent: Dan Wolfield, Dan Barusch (Director of Planning & Zoning)

Others present: Stephanie Fregoe (Clerk), Matt Fuller, Jon Lapper, Devin Dickinson, Tim Barber, James D. Quirk, Zeke Merchant, Linda Duffy.

Meeting began at 6:00pm.

PUBLIC HEARING

TAX MAP:	264.06-2-5
OWNER/APPLICANT:	JAMES D. QUIRK
ADDRESS:	21 SEWELL STREET
ZONE:	COMMERCIAL MIXED USE
APPLICATION:	SITE PLAN # 1845

Remand of Site Plan Application for the above for compliance with SEQRA, Site Plan Review.

Matt Fuller: Just kind of a brief recitation of this matter, from a litigation standpoint, I'm Matt Fuller, the Village attorney. So, about a year ago, an initial Article 78 was filed with regards to the ZBA determinations, some variances, and that had some procedural defects on that, so we quickly agreed to stipulate to reverse that decision. Mr. Quirk then came back, made application to the Zoning Board and Planning Board. The ZBA acted, granted some variances, what I call Carr 2, the second Article 78 was filed before the Planning Board had acted, but after the Zoning Board had acted. Well, why do you do that, well from a challenger's standpoint there is a 30-day statute of limitations so it can't wait. So, they challenged that. In the meantime, Mr. Quirk at Mr. Lapper's insistence, came to you, went through the site plan and the waiver process and you guys granted waivers, granted site plan approval. For your information, I took the copies of the letters that Dan Barusch sends out after you guys make determinations. I gave copies to you guys here tonight. That's also part of your overall record in this matter. But I just wanted you to have those so you could see what we're talking tonight. But you guys had gone through SEQR, granted the waivers, granted the site plan approval and again because of the way the law works, Mr. Carr challenged that in what I call Carr 3, the third Article 78 and for the sake of admissions he, the court had held up Carr 2 and put us on for oral argument back in May, and obviously I'm glazing over what is a lot of paper work and pleadings and affidavits, and those are things behind the scenes. I could have probably brought the file in, but I'd charge the Village by the pound if I did that. (Laughter) So, we had our oral argument and I want to say there were 13 or 14 causes of action. The court sustained the Village on all but one. So, I obviously take that as a good job. It's not a hundred percent but the issue that the court had, I would really say that a document issue. The SEQR, you're required to look at all aspects of the project and if there are other parts

of a project that are related, that they may not even be jurisdictional to you, from the court's standpoint, the courts says well you've got to take a look at that stuff too. In the record and in the minutes, Dan Barusch and you guys had that discussion actually, and on the minutes are pretty well documented that you looked at not only the building project, if you will, that was jurisdictional to you, but you did also have a discussion about the adjoining land that had some boat storage. That application I believe was pending at that time for Lake George Park Commission, but was not jurisdictional to you under site plan review. Right? So, the interesting, here's a bad pun here, the interesting quirk was you have from a SEQR standpoint, a little bit of a broader responsibility than the zoning. Your zoning, when we said well you've got to look at this for site plan review, the neighboring use of that property did not fall under site plan. That was a determination that Dan Barusch makes as zoning administrator. So, but you guys did it. The issue, and I'll boil this entire 20-page decision down, the issue that the court had was that's all fine and dandy. We recognize that the planning board did that but the Part 1 of the Environmental Assessment Form that the applicant filed, and I think because of the jurisdiction of the Planning Board (inaudible) but the Part 1 only included information to what was jurisdictional to you, which was the building. The building parcel, and not the adjoining parcel. So, the court said, therefore, you know it raises the question of how could the Planning Board have reviewed something if the information wasn't in front of it. So, if that's the one issue that the court had (inaudible) probably could have taken a swing at it, an appeal on that. It's a waste of resources, a waste of the applicant's time, even Mr. Carr's time as the neighbor, and your time. Quite frankly, a waste of Village resources. I will say that they just last week, I think it was, or earlier this week, a notice of appeal for both Carr 2 and Carr 3, I call them, was just filed by Mr. Carr. Where that goes, I don't know. You've got a lot of time, a month to perfect those appeals so where ever that may go, I don't know, but it doesn't impact us here tonight. There's no injunction, no stay. Just late today we did also get a letter from Ms. Braymer who is Mr. Carr's attorney, requesting some zoning determinations from Dan Barusch, but similarly that's not a stay. There's not an injunction to stop us here tonight. What's your task tonight? The applicant has forwarded to, through Dan's office, working with Stephanie, updated information. So, I've reviewed it all, you've got an updated Environmental Assessment form. Some plans that show and did honestly, the plans before showed the further detail of the neighbor's use, storage and things like that. So, your task tonight, if you think about a SEQR standpoint, if the judge took issue with SEQR. It also goes back to taking a look at, though did not reverse your site plan or the waivers, he didn't reverse those, he remanded it back to you to take a look at SEQR and that ultimately, depending on what you find with the SEQR with the new information that you have, did that require or did that lead you to a different determination on the waivers and the site plan. So, what I did is I supplemented what you have, and it's not that I gave you outside information, or different information. This is information that is in your record. It's in the actual file, the larger file of the site plan and the waivers. But those are the letters that Dan, and probably Stephanie, generate as part of the approval process, once you guys act. So, where are we going? You're going to take a look at SEQR. You're going to take any information from the floor, any discussion you want to have. I've included, I've given you some draft resolutions language that just kind of spells out in somewhat shorter detail what we just talked about. What I don't generally do, when I output resolutions, when I don't draft findings. That's really the Board's purview. I don't like to cross over to your seat. I'd be happy to walk you through that or answer any questions you may have about it, but so you're here with two parts. One would be reviewing the SEQR which obviously the determination is significant, positive, negative. And

depending on which way that goes, we would be. If it was a negative declaration, the next step would be to go take a look at the prior determinations that you made and based on the information you have. Does that change any of your prior decisions. Does it require some condition that you might not thought of before? Or anything like that? Or is it simply a reaffirmation to affirm what you did before? So that's really the task that's before us tonight, is to walk through the SEQR process. You guys have done it a hundred times. You answer the question. Now you're looking at it as you did before. You're looking at it from both parcels' standpoint. Now you've got all the information in front of you. Does that change any determination you made before? And based on that, if it's a positive declaration and the process will slow down and we'll go back and review whatever environmental concerns for that as a negative declaration. We'll go take a look at the waivers and site plan.

Carol Sullivan: So, we should have a revised part one tonight? I don't believe we do.

Jon Lapper: We submitted that.

(inaudible)

Carol Sullivan: I have one that's dated January 23rd, 2019 and it describes the location as 21 Sewell Street.

Matt Fuller: I think Jon, maybe you want to chime in on this.

Jon Lapper: Yes, I've got it.

(inaudible)

Jon Lapper: Devin prepared it and it has, in addition to the description of the project from last time, it says provided outdoor boat storage on the (inaudible) parking area.

Stephanie Fregoe: I can run and make copies if you need them.

Matt Fuller: And the other part is too, that's actually a good question, when you walk through part one, you're not limited to information or statements that the applicant puts on here.

Patricia Dow: Right.

Matt Fuller: If you find corrections, things like that, that you think should be reflected on here, you have the power to amend this. Ultimately, the responsibility of the SEQR is the Board, not the applicant. So, your free to amend this thing, add to it in any shape or fashion.

Carol Sullivan: Do any of you guys have any questions for Matt?

Dean Howland: Just that we're gonna, all that we're doing now is just (inaudible)

Carol Sullivan: Right, and we did look at the boat storage at the laundry parcel, but that was under the jurisdiction of the Park Commission. The issue is, that when Denis filled out his part one, he only included information for the parcel that includes the new boat storage building. So, now we have to look at.

Dean Howland: Wasn't he given approval for that part another time?

Denis Quirk: The adjoining?

Dean Howland: Yes.

Denis Quirk: Yeah, so.

Carol Sullivan: It was a change of use a few years ago.

Denis Quirk: That's right.

(Inaudible)

Matt Fuller: In your, included in the packet that came after, there is a March 27th, 2019 letter from Dave Wick of the Lake George Park Commission. That obviously came after your prior action. But it's something to be noted in the record, and also reviewed in the context of SEQR here, that the point that Park Commission did approve the storage next door, their class A marina permit so, you know, again, you're taking account of all the information you have in front of you that also is new information that is open to the (inaudible).

Carol Sullivan: And that was approved by the Park Commission on what date?

Matt Fuller: It would have been before that, but the letter is dated March 27, 2019.

Dean Howland: Didn't they have small copies of the maps on the last page?

Carol Sullivan: Right but shouldn't the, shouldn't the project location be 21 Sewell Street and whatever the address is?

Matt Fuller: You can update that, yup. What is the adjoining address?

Denis Quirk: 33.

Matt Fuller: 33 So, Under the project address you're gonna update to say 21 and 33. You should note that for the record. And yeah, so the date on the back does say 1-23-19. That should probably be updated to say. Whenever, not entirely sure the date when you all filed?

Carol Sullivan: After the Quirk?

Matt Fuller: Do you remember when you filed that Jon?

(inaudible)

Carol Sullivan: So, the date we're changing to today's date for the record?

Jon Lapper: What was the date of the application?

Devin Dickinson: I think we submitted all the new paper work June 17th.

Carol Sullivan: Ok, so is that the date we're putting on here?

Devin Dickinson: Yup, so let's do that.

Carol Sullivan: So, for the record, Stephanie, we're adding under project location, we're adding 33 Sewel Street and a date of the SEQR is now 6-17-2019.

Stephanie Fregoe: Ok.

Dean Howland: We're going to do 6-17?

Carol Sullivan: Yes. So, Matt our answers on part two, our considerations on part two are for both parcels, correct?

Matt Fuller: They would be, yes.

Carol Sullivan: Just a quick question on the revised SEQR. Just to be sure that all the information was changed. The total acreage on this site is a proposed, the whole thing is 4.8 including the laundry?

Devin Dickinson: Correct.

Carol Sullivan: Oh, ok. So, this is correct?

Devin Dickinson: Yes.

Carol Sullivan: Ok, so we can start reviewing part two?

Matt Fuller: Yeah. You may ask them if they've got anything they want to present.

Carol Sullivan: Do you guys have anything?

Jon Lapper: Just a short statement that we agree with everything Matt said on the record. We were very pleased that the judge affirmed. It was the Village Board on the rezoning and the Planning Board and the Zoning Board and that we're just here, remanded for this one issue, so in addition to the revised DAF we submitted the final plans, which shows the boat storage behind the laundromat and the building on this site so that the record is complete and just to reference that Chazen Engineering on behalf of the Park Commission reviewed and approved the

stormwater plan on the other site and the Park Commission, since we were here last, did approve the part that was jurisdictional to them on the site next door. So um, the stormwater on the whole site and boat storage as well. So, the record that you have in front of you, I believe is complete.

Carol Sullivan: Ok.

Jon Lapper: And it still remains an important project to put the boat storage indoors so that when you're on Canada Street, when you're at John Carr's place, instead of looking at the boats sitting out there, it'll be a landscaped, an attractive building.

Carol Sullivan: Alright, so we'll just go through the questions and dissect them. And note whether they're small impact or moderate to large. Will the proposed action create a material conflict with an adopted land use plan or zoning regulation? Walt?

Walt Adams: Nope.

Carol Sullivan: Patricia?

Patricia Dow: No.

Carol Sullivan: Carol, no. Dean?

Dean Howland: No.

Carol Sullivan: Will the proposed action result in a change in the use or intensity of use of land?

Patricia Dow: So, this is, I'm sorry.

Carol Sullivan: That's ok.

Patricia Dow: This is both parcels we're considering? But we have no jurisdiction over this parcel?

Matt Fuller: Correct. But from a jurisdiction standpoint it'll just be a zoning, land use standpoint. Now we're looking at just the SEQR standpoint. And what my general advice to Boards is on this, and I haven't been to a lot of your meetings, so if I'm telling you something you already know, but obviously you can say yes to anything. And then the next question becomes, is this small impact or is it moderate to large impact and then we'll discuss it later in part three. But to answer your question, yeah, you're reviewing both, even though from a zoning standpoint our jurisdiction of the building.

Carol Sullivan: Ok so again, question two. Will the proposed action result in a change in the use or intensity of use of land? Walt?

Walt Adams: Yes.

Patricia Dow: Yes.

Carol Sullivan: Yes.

Dean Howland: (inaudible) What is the change in use that you're seeing?

(inaudible)

Carol Sullivan: Correct, but I believe Denis has added more boat storage to the laundry parcel, correct? Wasn't that what was before the Park Commission?

Denis Quirk: Our proposal going before Park Commission was the same as it went to you. Now you're just getting the full application.

Carol Sullivan: Right. But previously when the change of use was allowed for the parcel of land.

Denis Quirk: So, nothing has changed. Just, we're giving you a schematic of exactly what they demanded.

(inaudible)

Matt Fuller: If the answer is yes.

Dean Howland: The addition of boat storage out there. (inaudible)

Matt Fuller: Is it small impact, moderate or large?

Carol Sullivan: Ok. So, do we want to discuss those now or do we want to wait until after?

Matt Fuller: You can do them.

Carol Sullivan: Ok. So, Walt is it a small impact or a moderate or large impact?

Walt Adams: Small.

Carol Sullivan: Patricia?

Patricia Dow: I say moderate.

Carol Sullivan: I guess I have a question for Denis. So, when the change of use went in a couple, few years ago, I can't remember when. How many boats did you store there at the time?

Denis Quirk: So, really things haven't really changed. (Inaudible) just utilized space that we had. We've looked at it carefully.

Carol Sullivan: Right, so how many boats did you submit to the Park Commission in?

Denis Quirk: So, we do have a count on that.

Jon Lapper: You've got outdoor storage of 146 on the whole site.

Carol Sullivan: On the whole site?

Jon Lapper: Whole site, 146.

Patricia Dow: Both parcels?

Jon Lapper: Yup, which is winter storage on both parcels.

Patricia Dow: And what was it several years ago when they came for change of use of the laundromat?

Denis Quirk: We had, well I don't know if that's correct, we had 200 and something.

Devin Dickinson: 246. 100 indoor and 146 outdoors.

Denis Quirk: That's correct.

(Inaudible)

Carol Sullivan: So, it's less today than when the change of use was?

(Inaudible)

Denis Quirk: So, it's 100 indoor and 146 outdoor.

Jon Lapper: Carol is asking what was the outdoor previously?

Carol Sullivan: Just on the laundromat parcel when you got your change of use?

Jon Lapper: Just on the one side.

Denis Quirk: Well my permit was 236 I believe.

Jon Lapper: Just on the laundromat.

Denis Quirk: Through the Park Commission, that was my permit.

Carol Sullivan: So, 236 on the laundromat when you got your change of use in 2000 and whatever, a few years ago.

Denis Quirk: Correct.

Carol Sullivan: Ok and so now it's 146 for both parcels, that's the winter storage?

Denis Quirk: No, two.

Carol Sullivan: 246, so it remains the same.

Denis Quirk: Ten more.

Carol Sullivan: It's ten more. Ok.

Patricia Dow: That was when the laundromat came for change of use, your outdoor storage on both lots was 230 something?

Dean Howland: I think 236.

Jon Lapper: That's on both lots, right? Not just on the laundromat parcel?

Denis Quirk: Basically, on the other parcel. Then we got a whole other parcel that we're just keeping the same. So, add 236 boats, I believe, on the 21 Sewell Street. Now I have another parcel and I'm only adding ten.

Carol Sullivan: Ok, so when you got your change of use for your laundromat, you stayed at 236 for both parcels.

Denis Quirk: Correct.

Carol Sullivan: And then now with this new project, you've added 10 more which brings you to 246.

Denis Quirk: Correct.

Carol Sullivan: And now you're spread over both parcels?

Denis Quirk: Correct.

Carol Sullivan: I got it. Ok so then I'm gonna say small.

Jon Lapper: Devin, can you put that on the record? Devin has an exact number.

Carol Sullivan: Ok.

Devin Dickinson: Devin Dickinson, for the record. So the previous marina permit allowed for outdoor storage of 200 vessels.

Jon Lapper: Which sites?

Devin Dickinson: Of the parcels excluding the laundromat.

Carol Sullivan: So, 200 on Shoreline Boat Sales parcel?

Devin Dickinson: Correct. Which is comprised of multiple parcels.

Carol Sullivan: Correct. So, now you've added the laundromat, in whatever year, it was, I think it was 17 or 16.

Devin Dickinson: Yeah, so we've added the laundromat and reduced the 200 outdoor storage to 146 outdoor storage on all of the parcels.

Jon Lapper: And 100 indoor of course.

Carol Sullivan: Ok. So, that's a net of 146.

Jon Lapper: And the indoor because it's stacked inside.

Dean Howland: No, we understand that. It's just, that's what we were talking about.

Carol Sullivan: So, 146 outdoor, 100 inside in the new building.

Devin Dickinson: Yes, correct.

Carol Sullivan: Ok, got it. So, I'm still gonna say small impact and Patricia do you still want to change yours?

Patricia Dow: Small.

Carol Sullivan: Ok so Patricia has changed to small, I'm small.

Dean Howland: I'm small.

Carol Sullivan: And Dean is small. Ok. Will the proposed action impair the character or quality of the existing community? Walt?

Walt Adams: No.

Carol Sullivan: Patricia?

Patricia Dow: No.

Carol Sullivan: Dean?

Dean Howland: No.

Carol Sullivan: Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area? Walt?

Walt Adams: No.

Patricia Dow: No.

Carol Sullivan: No. Dean?

Dean Howland: No.

Carol Sullivan: Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or a walkway? Walt?

Walt Adams: No.

Carol Sullivan: Patricia?

Patricia Dow: No.

Carol Sullivan: No. Dean?

Dean Howland: No.

Carol Sullivan: Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonable available energy conservation or renewable energy opportunities? Walt?

Walt Adams: No.

Patricia Dow: No.

Carol Sullivan: No.

Dean Howland: No.

Carol Sullivan: Will the proposed action impact existing: a. public/private water supplies? Walt?

Walt Adams: No.

Patricia Dow: No.

Carol Sullivan: No.

Dean Howland: No.

Carol Sullivan: b. public/private wastewater treatment utilities? Walt?

Walt Adams: No.

Patricia Dow: No.

Carol Sullivan: No.

Dean Howland: No.

Carol Sullivan: Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? Walt?

Walt Adams: No.

Patricia Dow: No.

Carol Sullivan: No.

Dean Howland: No.

Carol Sullivan: Will the proposed action result in an adverse change to natural resources, in other words, wetlands, waterbodies, groundwater, air quality, flora and fauna?

Walt Adams: No.

Patricia Dow: No.

Carol Sullivan: No. Dean?

Dean Howland: No.

Carol Sullivan: Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?

Walt Adams: No.

Patricia Dow: Hopefully not.

Carol Sullivan: Is that a no or a small?

Patricia Dow: It's a small.

Carol Sullivan: Ok. (inaudible) Well I believe you have storm water in both parcels.

Denis Quirk: Extensive.

Carol Sullivan: Dean?

Dean Howland: No.

Carol Sullivan: Will the proposed action create a hazard to environmental resources or human health?

Walt Adams: No.

Patricia Dow: No.

Carol Sullivan: No.

Dean Howland: No.

Carol Sullivan: Ok.

Matt Fuller: So, what I did is, in your materials there I just quickly through together a couple of whereas' for you. If you want, I can read them.

Carol Sullivan: That would be good. Thank you.

Matt Fuller: Now resolution of the Lake George Planning Board. So what you're going to do is this will, this part here will come under part three. Which is the next page there, your determination of significance. So, I'll just read this off. Application of James D. Quirk, property at 21 and 33 Sewell Street, Lake George, New York; tax map parcels 264.06-2-5, and what is the other one? You have that Jon?

Devin Dickinson: I get it for you momentarily.

(inaudible)

Carol Sullivan: There's two parcels so.

(inaudible)

Denis Quirk: There's four actually on 21 Sewell Street. Their cut up differently. That's the way I pay my taxes anyways.

Carol Sullivan: Oh, so 264.06-2-5.

Denis Quirk: But, they're small.

Carol Sullivan: It's not that whole Shoreline Boat Sales?

Denis Quirk: It is.

Carol Sullivan: Oh, it is?

Denis Quirk: It is.

Jon Lapper: I think it's two, two five, two dash five. So, it's parcels two to five.

Patricia Dow: Six two to six five?

Carol Sullivan: So, Shoreline Boat Sales, Denis, and the laundry are how many parcels?

Denis Quirk: Well those are two, but in the back there's a couple small pies I pay tax on. If we have to put, if we have to put that in, they're small parcels. I mean, it's not significant at all.

Carol Sullivan: But you do use them?

Denis Quirk: We do use them, yeah. It's mostly the wetlands to be honest with you.

Matt Fuller: Ok so yeah, here's (inaudible) page four of the 13 in the Park Commission permit lists 264.06-2-6.1, 264.06-2-6.2, 264.06-2-11. So those are their parcels that are under your Park Commission permit. What I'll do is suggest that in terms of the tax map number description for the project site that we talked about on the first page of the EAF and this resolution, we will mirror these tax map parcels, ok? (inaudible)

Dean Howland: That's only three though.

(inaudible)

Matt Fuller: So, the first one is 6.1, the second one is 6.2, the third one is 5 and the fourth is 11.

Dean Howland: Oh, ok. Number five.

Matt Fuller: Site Plan number, I believe was 1845.

Dean Howland: You still have 264.06-2-5.

(inaudible)

Dean Howland: And then you only have three more, but you said there were four.

Carol Sullivan: Denis?

Dean Howland: Four total. Four total, including the building site. Ok, sorry I thought you said there were four total.

Matt Fuller: Oh, ok, yup, good question.

Denis Quirk: You're right, you got it.

Matt Fuller: Yup, let's be right about that. Now that answers your question, four total. (inaudible) WHEREAS, the Village of Lake George Planning Board (hereinafter the "Planning Board") previously granted site plan approval and certain waivers to applicant James D. Quirk (hereinafter the "Applicant") for a site plan project located at 21 Sewell Street, in the Village of Lake George, tax map parcel 264.06-2-5 (hereinafter the "Property"); and

WHEREAS, subsequent to said approvals, an Article 78 petition was commenced by an adjoining owner, wherein the Hon. Robert Muller, by decision dated May 29, 2019, remanded the site plan application to this Planning Board, noting that Part I of the EAF filed by the Applicant did not include information relative to Mr. Quirk, I'm just going to say the Applicant's, plans for his neighboring parcel including boat storage which adjoins the Property and for which he subsequently pursued approvals from other jurisdictional agencies; and

WHEREAS, the Court directed that the application be remanded for further review pursuant to SEQRA to include the proposed action on the Property as well as the Applicant's adjoining lands all as identified above and in the EAF; and

WHEREAS, the Applicant has submitted documentation including a revised Part I EAF, March 27, 2019 permit issued by the Lake George Park Commission which was subsequent to the Planning Board's review of the application, drawings showing the current and proposed uses, a detailed survey map with attached stormwater plans, in addition the Planning Board retains and has reviewed the volumes of information submitted by the Applicant as well as adjoining property owner Mr. Carr from the prior site plan application; and

WHEREAS, the Planning Board has reviewed Part II of the EAF and information noted above and is prepared to render a determination of significance thereon;

NOW THEREFORE BE IT RESOLVED THAT and I obviously left that point, that's the Board's purview.

Carol Sullivan: So, this where we would make the decision for neg. dec.

Matt Fuller: Yes.

Carol Sullivan: Ok. I'll make a motion for a negative declaration on the revised Short Environmental Assessment Form dated June 17, 2019. Ok?

Dean Howland: I'll second.

Carol Sullivan: All in favor?

Patricia Dow: Aye.

Walt Adams: Aye.

Carol Sullivan: Four ayes, motion carried.

Matt Fuller: And so, the second part, based on that. You can have a discussion. I gave you the permanent record in the Article 78, again just the letters that Dan Barusch issues after you guys make determinations. I think it's about ten pages I gave you including the waivers that you previously granted, and also site plan approval that you previously granted. And I thought would be, if anything that's been submitted to you, you know, requires any further review or condition or anything like that, um, it's not like you had much in the SEQR review. You've did a great job going through that, you know, deciding whether things were small or moderate that you did answer yes, but if there was anything that you find the condition, or anything like that, you can do that. Or if it's the Board's desire, based on SEQR review that you just went through, you can also just find that there's no reason to deviate from the prior decision and all you're doing is reaffirming the previous app. Because now you're back to your jurisdictional projects.

Carol Sullivan: Correct so we're not here though to look at everything we looked at before. If there's anything that changes in our previous approvals and conditions it would be related to the revised SEQR that we just reviewed?

Matt Fuller: Yup.

Carol Sullivan: Ok.

Matt Fuller: Yup. So, I drafted some whereas' once again. Whereas, upon review of the updated Environmental Assessment form and issuing a negative declaration thereon; and WHEREAS, the Planning Board also has the prior determination and waivers and site plan granted by it on the application; and WHEREAS, upon review of the additional information submitted by the Applicant as well as the testimony at the hearing on this date, the Planning Board is prepared to render determination as remanded by the Court;

Now therefore be it and I drafted simple language, but you're free to discuss it. If there is no further change or anything like that you think, put resolved, that the Planning Board hereby finds no reason or additional information has been presented that would require deviation from its prior determination, and hereby affirms the waivers previously granted, without change and reaffirms the site plan approval previously granted on Site Plan #1185, James D. Quirk, 21 Sewell Street, Tax Map Parcel 264.06-2-5, with all conditions and findings as noted. And this is back to your jurisdictional parcel.

Carol Sullivan: Are you in agreement with that Walt?

Stephanie Fregoe: Should it be Site Plan #1845?

Matt Fuller: Got a typo. #1845. Sorry.

Stephanie Fregoe: Ok.

Carol Sullivan: Ok, so let it be noted that the Board is in agreement with the.

(inaudible)

Carol Sullivan: So, I'll make a motion to accept the proposed resolution wording for after the review of the part one of the EAF and information as submitted.

Patricia Dow: I'll second that.

Carol Sullivan. All in favor?

Walt Adams: Aye.

Patricia Dow: Aye

Dean Howland: Aye.

Carol Sullivan: Four ayes. Patricia seconded that.

Matt Fuller: I don't know if I emailed this out to you, but I will.

Stephanie Fregoe: Ok. Thank you.

Matt Fuller: Copy and paste it.

Carol Sullivan: Ok. Thank you.

Denise Quirk: Thank you. Good to see you.

Jon Lapper: Thanks everybody.

REGULAR MEETING

Linda Duffy left the meeting room so the Board moved to the next applicant.

TAX MAP:	251.18-4-25
OWNER/APPLICANT:	BOB MERCHANT/ BACKSTREET BBQ
ADDRESS:	75 DIESKAU STREET
ZONE:	COMMERCIAL MIXED USE
APPLICATION:	SPR12-2019

Application was tabled from Planning Board meeting on June 19, 2019.

Applicant proposing numerous upgrades the Backstreet BBQ outdoor area, and is requesting a waiver from § 220-42 (d)[2] Architectural standards and guidelines, which does not allow metal siding to be used on any portion of a building (applicant would like metal siding on the northern building façade, to also have a horizontal live-edge timber “bar top”). Applicant is also proposing an expansion of the existing concrete pad over the now-existing crushed gravel area. A drywell for stormwater runoff will be installed in the new concrete pad area. Applicant is furthermore proposing landscaping timbers along the retaining walls for customers to place food/drink to accommodate additional outdoor seating (stools).

Zeke Merchant greeted the Board. He was attending in place of his father, Robert Merchant. Carol Sullivan stated the Board was looking for color samples. Mr. Merchant said he understood his dad needed to provide three items to the Board. One was color swatches for the metal wall, the second was an update on the Department of Health Permit and third was a drawing and data on the square footage of the outside area.

Ms. Sullivan requested that they start with review of the colors. The Board was requesting a color close to white that would match the exterior of the building. Mr. Merchant provided the Board with paint color samples. He explained that he couldn’t find a color swatch that matched the porch outside, which is “Battleship Grey”, a dark grey. He presented an off white, light grey color sample, called “Green Tint” by Benjamin Moore. Color code is 2139-60. Ms. Sullivan asked if the Board is in agreement with the color? Dean Howland stated yes. Patricia Dow asked what this color matches on the building. Mr. Merchant replied that the building is white now and that it matches the porch that is outside, adjacent to the building. The landlord has agreed to do the siding on the building in a similar color. Ms. Sullivan noted that the building is white but it is aged and not a crisp white. She thinks it will look good with the building. Patricia Dow, Walt Adams and Dean Howland agreed. Mr. Merchant said he is in agreement that the building needs a fresh coat of paint.

Ms. Sullivan addressed the inside service area. Mr. Merchant presented a new drawing to the Board members. In the previous drawings that his father provided, there was some timber that he wanted to add along the back wall by the fireplace to provide additional seating. They looked at the square footage inside and outside and the math did not work out, so they went back to the drawing board. What was indicated in red on the first drawing has been removed on the updated drawing. The inside area is comprised of two rooms, a front and a back room. The inside is 1,008 square feet, the front room. The back room is 408 square feet, totaling at 1,416 square feet. Mr. Merchant explained that he took measurements for the outside areas in three separate sections. One section is eight-foot square equaling 64 square feet. The next section is from the sidewalk to the corner of the building, totaling 117.5 square feet. Mr. Merchant explained that his father wasn’t clear on the layout of the tables, so what he wanted to do was provide him with limiting dimensions that his father would be comfortable being within, in order to comply with NYS Department of Health. Ms. Sullivan stated that he needs to meet the 708 square feet or less.

Patricia Dow asked about the concrete deck area on the layout. Mr. Merchant said that would be standing area only and not a service area. All tables and chairs will be well within the allowable

area for square footage. There is a concrete wall the people could sit on, but Mr. Merchant said that if signage was required to prevent that, he could add those.

Dean Howland asked what the width of the building is outside of the yellow line. Mr. Merchant replied that it is 15.9 feet. From the front railing along Dieskau Street, straight back to the end of the building, is 32.8 feet. Mr. Merchant rounded up the measurements so that his dad would be will within the required parameters.

Ms. Sullivan asked if there were any more questions regarding the outdoor seating. Walt Adams replied no. Patricia Dow and Dean Howland also said no. Ms. Sullivan said the last item they were looking for was an update on the Department of Health. Mr. Merchant stated that his father has received a letter for approval and he will need to provide them with a final seat count once these plans are approved by this Board.

Ms. Dow asked about the measurements of the outdoor areas and noted that the square footage is closer to 710. Mr. Merchant explained that he rounded up the numbers to the absolute maximum so that his dad knows he cannot go outside those parameters. Ms. Sullivan asked for the exact measurements, rather than taking a foot out here or there. Mr. Merchant said he could do that. Mr. Howland asked if it would be easier to just submit the actual measurements and put them on the drawing. Mr. Merchant said he can submit an updated drawing and Mr. Howland said that would be easier and then he can calculate the exact square footage. Ms. Sullivan said we know that he needs less than 708 square feet. Ms. Sullivan asked that if he resubmits the exact dimensions to Dan, showing less than 708 square feet, so it will be on record in the file, does Mr. Merchant need to come here before the Board. Mr. Howland stated no. Mr. Merchant agreed that he could submit that information to Dan. Ms. Sullivan said as far as DOH, they are waiting for approval from this Board, so Mr. Merchant can submit the information and Mr. Merchant agreed.

Ms. Sullivan reviewed the Architectural Standards for the waiver request. She read in the applicant's responses.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Architectural Standards waiver.

No, an undesirable change will not be produced as the business is on a backstreet and only one wall is being proposed with metal siding.

All Board members agreed with the applicant's answer.

2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an Architectural Standards waiver.

No, for durability/longevity of siding a building, especially in the area near the outdoor deck, we believe metal siding is most beneficial.

All Board members agreed with the applicant's answer.

3. Whether the requested Architectural Standards waiver is substantial.

No, the waiver request is not substantial because it is only one side of the building, we are asking relief on.

All Board members agreed with the applicant's answer.

4. Whether the proposed Architectural Standards waiver will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
No, no environmental impact from the siding. Physical impact is minimal, only one side of building, and is partially hidden from plain view.

All Board members agreed with the applicant's answer.

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Planning Board, but shall not necessarily preclude the granting of the Architectural Standard waiver.
Yes, tenants of building wanted to enhance look of business and outdoor dining area, but code does not allow for metal siding.

All Board members agreed with the applicant's answer.

Carol Sullivan stated that for the record the four members of the Planning Board present tonight agreed with the Architectural Standards waiver request as stated by the applicant.

Patricia Dow made a motion to grant the waiver from the Architectural Standards of the metal siding on one wall of the building at 75 Dieskau Street. It's to be painted the green, Benjamin Moore 2139-60 "Green Tint" light grey color.

2nd MOTION: Carol Sullivan

Carol Sullivan	Patricia Dow	Dean Howland	Walt Adams
AYE	AYE	AYE	AYE

Aye = 4 Nay = 0 Motion carried

Carol Sullivan stated that for the record where Mr. Merchant removed the square footage, which is labeled "extend concrete deck here", currently is not concrete. Mr. Merchant explained that it is now gravel. Ms. Sullivan asked if that would remain gravel and Mr. Merchant said if that changes, he will let his father know to address that with the Board. He would need to clarify this with his father, but Mr. Merchant believes that the idea was to add the concrete area to improve the dining area. The gravel is messy and looks unkept. If that is going to happen, he will make it clear to his father to come back to the Board. Ms. Sullivan agreed and noted that at last week's meeting, Bob Merchant doesn't have the finances now to pave that with concrete, but at some point, in the future if he decides to pour the concrete, he will need to speak with Dan Barusch. Dan Barusch can decide at that point if he needs to come back before this Board.

Patricia Dow made motion to approve the revised plan as presented for the area of the deck. It will be updated with the exact measurements put on it and submitted to Dan Barusch, as long as it's below the 708 square feet, below 50% of the inside space, it's fine with this Planning Board. It's approved conditional that the square footage is under 708 on the deck, as indicated here with Planning Board

the one and two parcels, with the concrete to be underneath that. On the plan it says “extend concrete deck here”, that will remain gravel, since there will be no seating in that area, because it is not part of the deck.

2nd MOTION: Carol Sullivan

Carol Sullivan	Patricia Dow	Dean Howland	Walt Adams
AYE	AYE	AYE	AYE

Aye = 4 Nay = 0 Motion carried

TAX MAP: 251.14-3-36
OWNER/APPLICANT: LINDA DUFFY/DUFFY’S CORNER DELI & CAFE
ADDRESS: 320 CANADA STREET
ZONE: COMMERCIAL MIXED USE
APPLICATION: SPR11-2019

Application was tabled from Planning Board meeting on June 19, 2019.

Applicant is proposing to expand current deli business into the old cigar shop to include ice cream sales, expand outdoor seating area and use one of the existing windows at the old cigar shop for interior-lot window sales/service. The total outdoor area will exceed 50%, so the applicant is seeking an area variance from 220-39 ‘Outdoor area for dining or drinking’.

Carol Sullivan addressed Linda Duffy and said that the Mayor has said that the Board of Trustees is prepared to rescind the section of the law, 118-8 that requires no outdoor picnic tables. With that rescinded at the July meeting, we can go forward tonight and conditionally approve this.

Ms. Sullivan addressed the picnic tables and asked Ms. Duffy if she were to use picnic tables, how would she attach the fence to them? Ms. Duffy replied that they would just screw into the tables, the same way that they are in front of the deli now. They have been in front of the deli for four years now and she hasn’t had a problem. She has some brackets and may also screw them into the asphalt for more security.

Dean Howland asked if the fence would be continuous. Ms. Duffy replied that the sections are six or eight feet and will attach to the ends of each picnic table. She will attach the fence to the tables for more stability. Mr. Howland asked if the fence could be freestanding and she replied yes, but it’s not as stable. Ms. Sullivan asked if it would be removed in the winter time and Ms. Duffy replied yes. It is easier to plow. She already removes the tables in front of the deli area.

Ms. Sullivan stated she has no issues with attaching the fence to the picnic tables, since she has been doing this at the deli and there haven’t been any issues. Mr. Howland and Mr. Adams agreed. Ms. Sullivan asked the Board if they had any other questions. She noted that the change of use has been approved.

Ms. Duffy stated that she is currently under the Department of Agriculture and that she may be changing to Department of Health because she now sells more café style food than convenience style. Department of Agriculture was at her place today and they discussed this.

Mr. Adams asked about the paint color and Ms. Duffy replied that the fence will be white. Mr. Howland asked about the picnic table material and Ms. Duffy replied that she wasn't sure. The ones at the deli are not treated, and are stained green. Ms. Sullivan asked what color the new tables would be and if they would be painted day glow orange. Ms. Duffy replied no, not orange. It won't be anything eye popping. Ms. Dow asked if they would be green or brown? Ms. Duffy said probably green or brown.

Ms. Sullivan asked about the windows. Ms. Duffy will have all of them open, but only use one for service. She is going to put information material inside, brochures for visitors. Ms. Dow asked about umbrellas and what color they would be. Ms. Duffy replied turquoise; she changes the umbrellas every year. They will not have beer logos on them. She likes vibrant colors. She just put new ones up that are striped with turquoise, lime green and burgundy.

Carol Sullivan made a motion to conditionally approve the use of picnic tables at 320 Canada Street for Linda Duffy's new ice cream shop. Conditionally on the Board of Trustees rescinding on Section 118-8 of the Village Code at their July trustee meeting.

2nd MOTION: Patricia Dow

Carol Sullivan	Patricia Dow	Dean Howland	Walt Adams
AYE	AYE	AYE	AYE

Aye = 4 Nay = 0 Motion carried

Patricia Dow asked if there would be four or five picnic tables as shown and which way they would be positioned. She was wondering in terms of making a motion. Ms. Sullivan noted that Ms. Duffy already has a variance and that the outdoor area is 760 square feet and indoor area is 1,048. She has a variance for the overage.

Patricia Dow made a motion to approve the expansion of the current deli business into the old cigar business for ice cream, with one of the windows to be used as a service window, the outdoor seating is on four picnic tables with the white picket fence, screwed into the width of them, to separate the picnic tables from the parking area. The picnic tables will be brown or green colored with umbrellas on them. The picnic tables won't be neon colored. No eye-popping colors for the picnic tables and the umbrellas will be coordinated. This is subject to DOH approval. A variance has been granted for the outside. The outdoor area exceeds the indoor space.

2nd MOTION: Carol Sullivan

Carol Sullivan	Patricia Dow	Dean Howland	Walt Adams
AYE	AYE	AYE	AYE

Aye = 4 Nay = 0 Motion carried

Meeting was adjourned at 7:30pm.