



down to sign and notarize the paperwork. We cannot proceed to until we have both land owners signatures on the application.

## II. REGULAR AGENDA

### 1. Rte. 6 Express / SBL# 11-1-30.2 / TC – Town Commercial Zone / Site Plan

Mr. James DeWinter representing the applicant approached the board and handed out a picture showing the rear of the property on the lot coverage issues. MHE Patrick Hines comment number one was discussed.

Issue of sending the applicant to the Zoning Board of Appeals was discussed. Is it a change of use for eating and drinking and also for the vehicle rental?

Planning Board Attorney David Bavoso explained that they are adding two items, vehicle rental and indoor sitting space. The concern is whether we consider that changing or expanding the use under the code. If we do consider it as that then this will have to go to the ZBA because the lot size has to be one acre and currently is 0.67. So they would have to go for an area variance for the entire use.

Mr. DeWinter felt that this is a preexisting lot, it has been there forever, no matter what use you have their, it's a preexisting lot.

Chairperson Parsons explained that the only problem is you are making this more non-conforming.

Attorney Bavoso discussed the two definitions one for general retail and the other for motor vehicle fueling stations, that can allow selling if we are looking at "on premises" consumption.

It was determined to send this for an interpretation to make sure there are no issues. Attorney Bavoso also said that the board can refer them for an interpretation, but also submit request for the area variance as well just in case.

MHE Engineering comments discussed as follows:

1. The Applicants have submitted plans responsible to our previous comments. The area to the rear of the structure has been photo documented and identified as not for parking. We would recommend

that this area be definitively delineated to block parking through the use of fencing bollards or other barriers.

2. David Bavoso's comments regarding the need for a zoning variance for the change of use for eating and drinking and vehicle rental should be received. Existing lot in the TC Zone is 0.67 acres while minimum lot size is 1 acre. Similar circumstance existed recently with the Incredible Eatables on Dolsontown Road.
3. NYSDOT comments should be solicited.
4. Orange County Planning comments should be solicited.
5. The Planning Board should determine whether to hold a Public Hearing on the amended site plan after receiving David Bavoso's opinion on variances required.

**Motion by James Driscoll, seconded by Kenneth Kyle to refer the applicant to the Zoning Board of Appeals for an Interpretation and or area variance.**

**All voting members voted yes**

**MOTION CARRIED**

**Motion by Daniel Long, seconded by John Neiger for the board to act as Lead Agency.**

**All voting members voted yes**

**MOTION CARRIED**

Chairperson Parsons explained to Mr. DeWinter, that they may appear before both boards simultaneously, but the burden is on the applicant should their variances not be granted.

### **III. OTHER BUSINESS**

**Approval of Minutes for September 28, 2016**

**Motion by Daniel Long, seconded by John Neiger to approve the minutes from September 28, 2016 as submitted.**

**All voting members voted yes**

**MOTION CARRIED**

#### **NOVEMBER MEETING DATE**

There was a discussion on the meeting date for November. Usually November and December monthly meetings have only one meeting that month due to the holidays. When the agenda was set, we tentatively put

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down November 16, 2016, the third Wednesday of the month. We have decided to use our regular meeting date (second Wednesday) as the November 9, 2016 meeting date.

**Motion by James Driscoll, seconded by Richard Onorati to hold our November meeting date on November 9, 2016 at 7:30 P.M.**

**All voting members voted yes**

**MOTION CARRIED**

**Motion by Kenneth Kyle, seconded by James Driscoll to adjourn the October 12, 2016 Planning Board Meeting.**

**All voting members voted yes**

**MOTION CARRIED**

The October 12, 2016 Town of Wawayanda Planning Board meeting was adjourned at 8:03 P.M.

Respectfully Submitted,

Patricia Battiato  
Secretary to Planning