

WORKSHOP MEETING MINUTES
TOWN OF LLOYD PLANNING BOARD

Thursday, April 20, 2023

CALL TO ORDER TIME: 5:30pm

PLEDGE OF ALLEGIANCE

ANNOUNCEMENTS: GENERAL, NO SMOKING, LOCATION OF FIRE EXITS, ROOM CAPACITY IS 49, PURSUANT TO NYS FIRE SAFETY REGULATIONS. PLEASE TURN OFF ALL CELL PHONES.

OFFICIALLY OPEN THE MEETING

Attendance: Board Members: Scott McCarthy, Charly Long, Franco Zani, Gerry Marion, Bill Meltzer, Carl DiLorenzo, Sal Cuciti (via Zoom, left at 6:15pm), Lenny Auchmoody (Town Board); Board Staff: Dave Barton, Paul Van Cott, Christian Moore, and Sarah Van Nostrand

Absent: Board Members: Lambros Violaris

Minutes to Approve at April 27, 2023 meeting
March 16, 2023 & March 23, 2023

New Business

The Villages PRRD: Site Plan: SBL #95.2-2-3.211 & 95.2-2-9.100

Applicant is proposing 197 independent living cottages and club house.

Review Status: Plans circulated to the board

Kelly (A part of the applicant's team) said that they are back for the board to review the detailed plans for the PRRD. In November they submitted a full plan set for the PRRD. They went over the changes that were made including the removal of structures and storm improvements on some steep slopes and the addition of 18 cottages to meet the affordable housing section of the code. They have provided the board with a full set of design drawings, an engineer's report for water and sanitary and a full SWPPP. They are here tonight to start the detailed review of those plans and to get any comments that board and consultants have.

Paul went over the history of the project with the board. He said that the step the Villages needs to take is to submit an application to the board for the entire PRRD, they need an accompanying narrative to explain what they intend to do. One of the things that there has been discussion about from the applicant is the desire on the part of the applicant to move forward with actual building construction. There are 2 buildings that are a part of the assisted living facility that was approved by the Planning Board. One portion of that they have been trying to say that they don't need to

obtain Department of Health approvals. They have asked if the town would allow construction of one of the buildings that may not require DOH license to go ahead and for Dave to issue building permits. They have asked a similar question with the independent living units that will now be coming forward to the board for review. Whether or not, if DOH licensing is not required they can obtain a building permit to proceed with the construction of those structures. Dave has said that it is not his authority, any kind of phased approach to construction would be up to the Planning Board consideration as part of site plan review. This is one of the major issues that the applicant needs to describe in greater detail in the context of the zoning code, the approval for the assisted living facility and the site plan and review that is required for the entire PRRD, which is not just the independent living units, but the independent living units and the assisted living facility.

Scott asked the application has not been filed yet for the Department of Health on this project? The board has asked a few times where they were with this and they understood that it was filed, just not accepted.

John (applicant's agent) said that he doesn't know where that information came from. His understanding is that you have to have full approvals not just town approvals, but all of them before submitting the application. They have been working on the application, by obtaining water, sewer, DOT which they should be getting any day.

Kelly said and have prepared full construction drawings which is one of the other things that has to be included.

Scott said in order to proceed to the Department of Health?

Kelly replied yes. At this point the one remaining permit is DOT.

John said that everything has been submitted, the fee, the bond to DOT.

Gerry asked where they are in getting the permit.

Kelly said that she can give an update.

Gerry said nothing has changed since the last time?

Kelly said correct, they still don't have the permit. They are just as frustrated as the Planning Board is. The first person reviewing it at DOT retired and left it for someone else who also retired, so now they are dealing with a 3rd person.

John said their goal is once they have that permit within the next 6 weeks that they can then submit to the Department of Health for the license.

Kelly said that they would love to submit a draft permit to the Department of State, it is their understanding that a partial application will be sent to the back of the pile.

Scott said that what Paul said there seems to be a question of what is in need of this Department of Health application.

Kelly said that they believe that it is clear, but they are working with Paul and Dave to clarify that.

Scott asked what they meant by clear.

Kelly replied that they think the upper portion of this building does not require Department of Health approval, the lower requires Department of State approval and the independent units do not require Department of State approval.

Scott said that these are all things that work hand in hand if he's not mistaken. The way it was originally intended and expressed to the board is that it was going to be a retirement development in the back and if they needed any care then they would be able to get that type assistance and then if later on in life they got a little older then they could go to the ALF. To his understanding it's all one blanket.

Kelly said it is an age in place.

John said the goal is to age in place.

Scott asked you don't need Department of Health for anything up there?

John said no, in fact that's one thing that they did get confirmed from Department of Health with respect to the cottages. They said there is no Department of Health approval as long as the developer isn't entering into any contracts for care. There are outside license agencies that work in various different counties that can provide home care services.

Scott asked that will be a separate issue from your development.

John said another company will come in and work directly with the residents who want it.

Scott said it is a sub-contracted agreement with them so you don't have to be licensed for them up there, they will have to be.

John said that the developer is not involved with that agreement between the resident it's something separate, but the developer will offer it.

Paul said that the board should keep in mind that there are different kinds of facilities and that there might be some assumptions that the Planning Board members and staff that the entire PRRD would be integrated. If you buy into some of these planned retirement communities, you buy in, so that you are in an independent unit when you initially join, but then as your health declines or you need additional services they would be provided as part of that community. What John is suggesting is different and he is not sure if this was initially intended by the applicant, that's not entirely clear to him, but it is a distinction to keep in mind because basically what they

are saying is those independent living units have no connection to the rest of the planned residential retirement district because they have a separate contract for any kind of services that they need, so it's not an integrated retirement development.

John said there is no requirement for someone who lives in the cottages to move over to the assisted living facility. When he initially appeared before the board four years ago at that time the town code had a different retirement district zoning code, it was promoted as continuing care retirement communities pursuant to Article 36 of the Department of Health law. In that code at that time four years ago, yes that was the intent and requirement that you have to age in place because under the State Department of Health that is what continuing care retirement communities are, but since that code was removed and it is his understanding that those types of communities are not working well in New York State. The town went away from that and then adopted the new PRRD.

Scott said so the age in place is not what you are applying for any more?

John said it is an option for the residents, but it's not required.

Kelly said it's available to the residents. As someone ages they want to be in an independent house, and then they can move into care.

Scott said that Hudson Hills is right next door to this and they can be doing the same thing and then asking them to go to your facility for assisted living. It's a separate unit and that's not how he interpreted it in the beginning when the board first saw the application. It is not what was proposed to the board in the beginning, but the law had changed. Under no circumstances was the board ever clear that, that had changed. The board was still under the interpretation that it was going to be an age in place from those cottages to the ALF.

John said that it's not prevented.

Scott said the reason he said it was different was because it's not The Villages in charge of the aging in place. His perspective was it was age in place going from that care there if needed in those homes to the ALF through The Villages.

John said that is what was required 4 years ago when they initially applied because that's what the code required. His understanding and discussion was that these types of facilities are not doing well in New York State. He is pretty sure they talked about it and it was a concern.

Paul said that the board should remember that this was talked about being an age in place and he doesn't think it was clear what the applicants intent was. If it intended to do what it is now saying it intends to do, he doesn't think that it was ever stated clearly. If it was an age in place facility then the DOH license would be required and under the prior conditions of approval that went along with the assisted living facility, no construction could occur until that approval was obtained. The board should be aware that what is being proposed now which could be within the zoning code, there won't be a necessary connection between those independent living units and the rest of the PRRD.

Kelly asked why the board is asserting that there is no connection between, she doesn't understand from the board what the concern is with the format of the program.

Scott said that if he was the developer and the intention was to make this an age in place, it was always sold to the board as cottages if someone had medical needs or had assisted living in those buildings to a degree, that they were going to stay there in their homes have that care given to them through The Villages, your building, your concept, you would do that. Then go from there to the assisted living providing the same type of care or maybe more. Now you are saying that's not what's there. He is having trouble understanding when that happened and why it happened. The licensing part you are going to file an application for the Department of Health not for the adult day care or for the cottages any more at this point, you are only looking for it for the ALF.

John said the adult day care center will be in the lower building with the licensed portion of the assisted living facility.

Scott asked what is the top building on top of the hill.

John said that is also an assisted living facility, pursuant to the towns code, but it doesn't need a license because it doesn't provide the level of care in which the DOH requires a license.

Scott asked if it was going to be a privately licensed nursing agency taking care of people in there?

John said same situation if someone has a homecare service agency come in and provide those services to people.

Scott said that he is just trying to understand it as it was not originally what the board was told.

John said that they have to understand that what was originally proposed was under a different zoning code, so what they proposed complied with the code at the time and that is where the age in place requirement was in the CCRC. That was taken off the table and is no longer required by the code. There is still the option for the people to transfer from the cottages to the assisted living facility, it's just not a contractual requirement that they do that.

Gerry asked when that code was changed.

John said 2020 or early 2021.

Dave said that they are working with the applicant to figure out what pieces are and where they are going to be. He agrees with John and his interpretation on what the state said about the cottages, if they don't supply services then no license is required. He also agrees that the level of care in the assisted living facility, if it will also house the adult day care does require a license. He is unsure about the other piece which envisions rooms that people can stay in with congregate dining, there will also be laundry services. It will be a lower level of care, they won't be getting medication. The piece that the board did not consider at the time was that the board didn't think

that anyone who was a resident in the nursing home would have a car, but these upper building seems like a semi-independent facility, so there might be a piece that might require thinking about if those people could have cars. It is for 62 and up and if they cannot afford the cottage the room might be the better solution for them, but that doesn't mean they won't have a car.

Scott said that there are still some things you need to do in order to file the application. He mentioned that the board has worked with them quite a bit and most of the board has approved what the applicant has needed. With the understanding that they are progressing with the original intent of everything that was going to be built, an ALF building, memory care, the building in the back a lighter assisted living facility and then all the cottages. There are certain things that the board would like to see done, and there are issues. The truck drivers that they are in contract with, he is requesting, if there are trucks going up there to do construction work, no side roads.

Kelly said that it was brought to their attention that there were some concerns about trucks going through the neighborhood. They did go a head and put up signs that was reviewed by the Town Board.

Scott asked was this recently?

Kelly replied yes, they just went up on Tuesday, there are signs all over saying no Village traffic.

Scott said he knows that it was an issue and had seen some road stuff going on. The light is a major thing, having the light put in a head of time, so it is controlling a bit of the extra traffic that is going on in there.

Kelly said that contract has been awarded to Corewood and as soon as they have the permit, they will order the materials and have the inspector set up already.

Scott asked are there any other approvals that need to be set in place before DOT will look at it or is it something they can just work on?

Kelly said that it will switch from the permit engineer to the local engineer once the permit has been issued.

Gerry asked what happens if DOT says that they cannot have the light?

Kelly said it might be helpful to have the Planning Board chair and the Supervisor of the town to sit down with them and talk with DOT, so they can hear what they have been hearing. DOT does things in reverse, so they review the entire application and once it's acceptable for a permit, then you submit for a permit. They have gone through that entire process; they were told to submit the permit, the bonds everything has been submitted. It is just so slow to get permits out of the state agencies.

Gerry said you do see the concern?

Kelly replied yes and she would be happy to get a call together, if that is okay with the board.

Scott said it is okay with him.

Franco said it has to do with a backlog at DOT.

Kelly said she would be concerned if the permit went in first and they were waiting three years. Since they have already done all of the review they give conceptual approval, then you just submit the paperwork.

Dave said that he has been in contact with DOT and he can confirm Kelly's point that they are very close. It was a win that the application was submitted in 2 parts, one was the light and roadwork and the other was the sidewalks. They are further behind on the sidewalks, but the light was the primary piece which was submitted first and that's what they are close on.

Scott said that is what the board is looking to see them being done first, more so than anything, to mitigate some of the traffic issues.

Kelly said that the contract has already been awarded so once they have the permit they can start.

Carl said the long term care no long exists with this project, is that correct. He was under the impression that it was cottages, assisted living facility and then long term care like a nursing home.

John said a nursing home is completely different from an assisted living facility in the Department of Health's world.

Carl said that Dave mentioned that it might increase traffic, so did the traffic study that was done, didn't include that.

Dave said that it would be slight, the amount of extra traffic. He was more concerned about parking area. There is guest parking for people visiting the nursing home, he doesn't think that the board thought that there might be a few additional cars for the semi-independent area in addition to the amount of guests. The increase in traffic would be so small compared to what was calculated previously.

Scott said they are still under that.

John said that the traffic report was done for a larger project and it has been reduced over the last four years.

Charly said the two buildings there, the top building is a lower care, how do they enter into that building, through the bottom building?

Kelly said there are two ways you can enter that building, through the top part there is a parking lot and through the bottom building there is an elevator that can bring you to the upper building.

Charly said he is concerned because they now want to phase it, starting with the cottages up top and the board had a concern with the licenses because if they had their cottages and came to the top building, that possibly the bottom building might not come into effect.

Kelly said that he is asking what happens if you don't get the license for the bottom building.

Charly said how does it leave the town because then that puts for zoning puts them into a different dilemma.

John said that the license is just going to take time. The application has to be made and they are back logged. He thinks that they have known since the beginning that the Department of Health process would take awhile.

Kelly thinks it's not an if, it's a when, that is their position.

Ron (A part of the applicant's team) said that he has been doing some work to prepare for the application to the Department of Health and there are a few more things needed before they can submit their application. They are on the verge of filing the application. Things they need is the Department of Transportation approval. Department of Health wants them to come to them with all the approvals for the development of this assisted living facility. Under some of the code provisions they are allowed to apply skilled nursing care for people in the assisted living facility and the license through skilled nursing care is only applicable for the daytime, it is not needed as much as a nursing home would. He feels that any day now they will be able to go forward with the application to the Department of Health.

Scott asked what are the other approvals that you are waiting on, is it just DOT at this point?

Kelly said yes.

Mike (a part of the applicant's team) said that the form he needs to sign cannot be done until they have DOT approval. As he has to certify it as the architect of record.

Scott said those are the two things needed to get the application filed with the New York State Department of Health, so they can proceed with the construction of the ALF.

Kelly said the license and then the construction yes.

Franco asked for an update on the project.

Kelly said as part of the Developer's Agreement, the developer had agreed to make infrastructure improvements to sanitary and to water along Route 9W, those are utilities that the town will take over, which they are installing now. The sanitary line took a little time finding, but it was located and installed. They are going to start the water line improvements shortly. They have extended the sanitary up Mayer. The Town Board approved the soil mitigation work on top of the site and the contractor has started the mitigation work. PVE which is the environmental group and they

are doing air monitoring testing daily. All of those reports are going to the town on a weekly basis.

Bill said that the code changed in 2021 and wanted to know when the project was approved?

Scott said he thinks the project was approved in April of 2021.

Bill asked if they were already under the new code then?

John said they got approval for the ALF as a special use permit in the R-1 District, that didn't change. The cottages portion that did change the zoning amendments that were enacted for the PRRD enabled them to build the cottages, so he thinks what changed is in 2019 the code required Continuing Care Retirement Communities under article 36 of Department of Health, then the code was updated to outline the PRRD and the CCRC under article 36 are no longer required. Initially when they came before the board 4 years ago, yes it was a contractual requirement that you were going to age in place because that is what the code required and Department of Health required, but then the code changed and no longer requires that type of community.

Bill asked the approval that the board gave them, did it require DOH for both parts and now they only want to get it for one part.

John said that only the lower portion requires a license from the DOH they believe, they are confirming with the Department of Health that the upper portion does not require, but it is still an assisted living facility, it still provides laundry, housekeeping, a dining hall, it will have meals. It won't be providing the level of personal care, supervision, case management that would trigger the Department of Health requirements, that will be in the lower portion.

Paul said that the existing approval would not allow any construction of any building to occur for the assisted living facility, either the part that requires a DOH permit or the part that does not, until the DOH permit is obtained. That is what the existing approval requires. One of the questions that have been presented by staff to the applicant, is that if they want to seek an amendment to the existing special use permit for the assisted living facility to allow construction of one part to proceed to construction, then that needs to come in as a request for amendment to that special use permit authorization. The complicating factor is now the applicant is submitting an application for the PRRD based on the local law that the Town Board adopted in February and the PRRD applies to both the independent living units and the assisted living facility, so that's another place that the applicant as part of its proposal and application, could say that they want to phase construction of this PRRD, by allowing the two portions of it that don't require DOH approval to move forward, without the DOH approval for the third portion to have been granted. If the board allows the two portions to go forward to construction and then you don't get DOH approval for the third portion where does the board end up.

Scott that would leave the town in a lurch as now you are out of the zoning compliance. By having the one part and not the other.

Paul said that the might comply a PRRD could potentially consist of the independent living units and an assisted living facility that doesn't require DOH approval. The PRRD law only requires that you have a mixture of principle uses, it doesn't say how many you have to have.

Scott said that he agrees but feels there still is a what if in there. If they don't get the permit for DOH then you are going to have a big, open, and empty lot with one building in the back and a bunch of cottages.

John said that you could still have an assisted living facility that meets the town code, but doesn't trigger a Department of Health license. Their preference is to have that portion with the 84-beds that is licensed, that has the memory care because there is a need for it.

Paul said that when the applicant comes in with this full application for the PRRD and describes the entirety of the project, they can take that into consideration, understanding the town's reasonable concern that if it allow 2 portion of the project to move forward construction and the third one may never occur and how could that be avoided.

John said that this is not a new issue, everyone knew that the Department of Health license application was going to take 18-months or so.

Scott said that the issue is that you want to phase the construction, that one gets built, they don't get the permit it doesn't get built and you have a bunch of houses that need to be sold with no affiliation with an ALF at this point. This is not was sold in the beginning and it leaves the town in a different position.

John said in the beginning there was always a risk, that the Department of Health would not issue the license.

Paul said that is why the condition is in the special use permit approval, it says you cannot build those structures until you get all discretionary approvals including the DOH. The town has been very concerned about this issue from the beginning, it's not just a new issue. They all believed that the Department of Health applications were well under way, that it would be a slow process, but that was back in 2021 and now 2 years later they understand that they have not even been filed yet and that is the issue.

John said they cannot be filed.

Scott asked what were they looking for.

John said that he has heard the board's feedback and will put together an application, a narrative and construction phasing.

Scott said the application to the Department of Health is still going forward based on DOT and the certification.

John said the certification cannot get signed until the DOT permit is in hand. They estimate 6-weeks to get the application into the Department of Health.

Old Business

Fanelli, John: Special Use Permit: 26 Gabriety Rd.: SBL # 95.4-2-26.210

Seeking approval for principal and accessory structures approved by ZBA on 10-8-20.

Bill recused.

John (applicant) said that he was before the board a few months ago and there were some questions, the Zoning Board had approved a planting scheme, approved a little house in the front of his property. There were some issues that came up, utilities, different types of trees, proximity to his neighbor's driveway. He had submitted some things that the board had asked for.

Franco said that the last time he was here he gave the board changes to the site plan.

John said correct.

Scott said that they also, were not stamped for the changes. It is not a stamped drawing, unless you have something that is stamped from an engineer.

John said that should be stamped, it came from an engineer.

Franco asked if he had the original.

John said he does, but not on him. It is a reoccurring theme that they don't have it or its not adequate.

Scott said let's start with the accessory apartment. There is an upstairs correct?

John replied yes.

Scott asked what is the upstairs used for?

John said it's a bedroom.

Scott asked if it was the same size as the 24 X 13.5.

John said no.

Scott said it is 24 X 10.5. The total living space is 240. So they are under the square footage. You have zoning approval for the building in front of the house.

William Hurst (applicant's attorney) said that there is ZBA approval to accommodate the structure in front of the house. The Fanelli's are in front of this board for the accessory use.

Scott asked there is no porch on the front of the building. He thought that they were over the square footage originally.

William the total square footage of the accessory structure is 686 square feet, the code under accessory uses is 650 square feet as the upper limit, subject to the board's ability to adjust that to take into account what is happening on the ground. In their initial application they asked the board to waive that 30-foot excess.

Scott asked if they were required to have a main use in this building or is it a 2nd family house on this property.

Dave said the application is for an accessory apartment.

Scott asked does it need a principal use in the building also.

Dave said that it has to be secondary to the principal use of the property. It is a much smaller house on a property that has a much larger house, he would argue that it is secondary to the principal use.

Carl asked if he had ZBA approval for the structure in front of the house.

John said yes.

Carl asked the applicant's attorney how he came up with total square footage of the structure?

William said that it was probably a ZBA finding.

Carl said the square footage is 24 X 13.5 and the upstairs is 24 X 10.5.

John said that there has to be a typo.

Carl said if the square footage is the same on the top and the bottom.

Franco said you have that covered porch on the 1st floor.

John said the square footage is 684 or 686, there has to be a typo on what they are looking at.

Scott said that the board can only approve what is on the paper, so it needs to be correct.

Franco said that the board needs stamped engineer's drawing. He asked if the raised beds were approved by Zoning Board or did you come to this board with it. This was not on the original plan that was approved.

John said that was correct.

Franco asked Dave if he had to go back to them.

Dave said that this board has the authority.

John said that is what the board asked for and that is what he submitted.

Franco said they didn't ask for raised they just asked for plantings.

Scott said something to buffer and you said you could raise that.

John said what he is hearing is that he came up with a solution, that print right there is what the board asked for. There is underground utilities, his neighbor's utilities are there, so he said that they will raise it up so they don't have to worry about a rooting issue once you plant the trees for the shading. That is what he put on the plan and that is what he is proposing to do to satisfy the Zoning Board's approval.

Paul said that the landscaping plan approved by the Zoning Board was for purposes of screening views of the project site in particular the accessory building that was being approved from other vantage points including the shared driveway that goes along the property line on that side. He thinks that as the Planning Board looks at it, there was a certain level of screening that the ZBA approved and the expectation was that if the Planning Board wanted to supplement that or adjust it that would be appropriate, the ZBA had intended that there be a certain level of screening provided.

William said that if he remembers correctly the variance that was issued actually said that the ZBA landscaping plan is subject to modification from the Planning Board.

John said the only thing that he suggested to be changed from what the Zoning Board had proposed was just that raised bed. Just that to avoid striking any utilities during the planting process, when the roots take place, tearing up the neighbor's driveway, so that was the solution to those problems, that was the only thing that was adjusted to the shading plan.

Dave said he also has better trees on the plan that you are reviewing now, these are Jolly Greens, that they have seen in other projects. They are fast growing, hardy, survive well in the northeast.

Scott asked how do you enter the garage with the car as he doesn't see a driveway.

John said there is no garage yet, there is a parking area.

Scott said that the board is looking at print and it shows a garage, whether it is proposed or not. An entrance in to that garage and a driveway of some sort should be shown.

John said that there is a driveway there.

Scott said to the garage.

Franco said do you go around the front of the house because you cannot go around the back of the house as the septic and leach field is there.

Scott there is not a driveway that goes into the garage and that is what his concern is.

Charly said that the plans show a garage that is not there, it's not a stamped architect plan. He doesn't see how the board can approve this.

John said that he needs a little bit of a clarification, he came to the board at the last meeting, the only thing that he had asked for was to put the trees on a raised bed. All of a sudden there are questions about the septic on the old house, the footage of the old house, what's going on in the old house, like we don't already know what's happening. Now we have moved on to a driveway that is there, that is blacktopped. He is confused on the focus and where they are going, he wants to know what the board is exactly looking for.

Franco said that he believes that the last time he was here the board asked him to come back with a stamped engineer drawing on what he proposed because at that time you didn't have one.

Scott said that is the first thing they asked for and that is not here. The list that you are going to get is an approved site drawing, a driveway showing that you are getting to the garage, and he doesn't see a paved driveway, he sees all gravel driveways.

Carl asked if the architect who did the plan was a licensed engineer.

John said yes.

Carl said what he needs to do is give you a site with his stamp on the plan and showing access from the road to the garage. Is the garage proposed or does it exist.

John said it is proposed.

Carl said it has to be indicated on the map that the garage is proposed.

John showed the board a plan that had been previously submitted that was done by a landscape architect.

Franco said you need to show everything on the plans including an utility page as pictures do not work.

Scott said that you came to us to have us approve a site plan, nothing is on the site plan, so the board cannot review it because it is not stamped. You showed the board with all good intentions of what is there and what you intend to do. The board needs an approved, stamped drawing, with the proposed garage location, driveway showing on the print all of those things are needed in order for the board to entertain this. The engineer should have know this before he came here.

John asked if the board received the packet.

Scott they probably got it months ago, but it is not an approved drawing.

John said the original reason he was before the board was for the raised bed. He asked if the plans satisfy the board, he knows that they cannot stamp the approval right now, but wants to know if there is anything else that is needed.

Gerry said are there any issues with topography and drainage of the raised bed.

Franco said that he doesn't like the idea of a raised bed.

Paul said that the one thing that the applicant needs to remember about the location of the garage is that it cannot be in the front yard.

Scott asked is the garage existing or is the picture of it what it will look like.

John said no the garage is not existing. It is a picture of what it will look like. He asked Franco how does he get around do it with the utilities there and the proximity of the trees to the driveway.

Franco asked if he had the utilities marked out.

Scott said that the board is not his engineer, the engineer can come up with better than the board.

John said if someone on the board says that they don't like the idea and he has to get their approval.

Scott said then he doesn't like it, the board cannot draw him engineered drawings. You have to go to your engineer and ask him what's the other alternative.

Public Hearings: Scheduled for April 27th

Delta Contracting Enterprises: Site Plan: 219 Upper North Rd.: SBL #87.8-1-10.100

Applicant is seeking site plan approval to construct a 2226 square foot storage building on a 1.13-acre parcel located on the westerly side of North Rd.

Review Status: Public hearing has been scheduled for April 27th.

Patti (applicant's agent) said that she has received the comments from the Ulster County Planning Board and just wants to review them with this Planning Board. She is not sure if they were looking at the proper plans when they reviewed this because of all the items that are listed

on there were already submitted. They did submit the lighting, the signage was shown on the front of the building, approval of the curb cut and driveway, the landscaping with the additional fencing the Planning Board had suggested. They talked about outdoor storage and they add where the truck and trailer parking was going to be. They showed the fencing with the details that they had submitted. As far as the sustainability it is an unheated storage building, so she is not sure how they would be using passive solar or geothermal heating on a storage building.

Scott asked if she had shown them the extra door.

Patti asked a rear door.

Scott said wasn't there another way coming out, did the board talk about doing it?

Gerry said wasn't it going to be for zoning or the fire code.

Patti said the way she addressed it was that the applicant was going to go back to the company and figure out what was required and they just committed that if the fire code required it, it would be reviewed by code enforcement within the town.

Scott said you showed the fence, which was PVC fencing.

Patti said that they showed the location of it and submitted the details for it. They have submitted the details on the lighting.

Carl asked if the building is unheated.

Patti said yes.

Franco said it is just storage of building materials and whatever they are storing won't freeze.

Patti said it is equipment that is used outdoors on construction sites. It's just a matter of keeping it out of the weather when it is not in use. More than keeping it out of the weather, so it's not unsightly.

Bill asked what about the recommendation to have electric vehicle charging stations, is that even relevant. It is an Ulster County recommendation.

Dave said that they will need a super majority to override that, but there is no reason to put EV chargers in this facility.

Patti said this is going to be a storage building and the only time they are going to be utilizing it, is when they have to go to the building to pick up equipment to bring it to a construction site which can stay there anywhere between 2 weeks to 2 months to 2 years depending on how long the construction project is and then the materials will be brought back and stored into the building.

Carl said in the event that it is sold in the future, could something be put in that states it has to come back to the Planning Board.

Patti said there are triggers in the site plan that say that if the change use meets this criteria it comes back before this board.

Scott asked would that be on the plans too.

Patti said that she usually does not because the zoning code could change.

Scott said that if something of that nature is on the print, they know that it has to be reevaluated for its use.

Patti said that she could add that this site plan is approved for this use only any changes requiring certain modifications require site plan approval.

Christian said that they could also put it as a condition of approval. That way it is in two places not just one.

180 South Street LLC: Commercial Site Plan: 180 South St. SBL: #87.3-5-14.

The applicant proposes to construct a 24,196 sq. ft. building addition keyed onto the west, south and east axis of the existing structure along with a loading area containing 4 loading docks at 180 South Street. The proposed use is allowed in the A zone and requires site plan approval and a special use permit. The applicant is proposing to rehabilitate the structure, construct a building addition with site appurtenances and increase roof height to increase distribution center operation productivity. No changes to the remaining principal access points are proposed. No new water or sewer services are proposed.

Review Status: Public hearing has been scheduled for April 27th.

Dave said that they have received Ulster County comments again the required modification that they put in EV chargers, that is something the board could ask for, but he is not sure how that would work since that is a code thing which is not really the board's oversight. The Town of Lloyd has not adopted the stretch code, although they could.

Paul said that he is with Dave on this, he thinks the board is ready for the public hearing next week and it is already set. The board will open it anyway and can discuss this further over the next week.

Bill asked if the developers receive the comments.

Scott says he believes that they receive them.

Ruiz, Giuliana: Water Bluff Overlay District: 17 Cross Creek Run: SBL# 80.3-2-27.140

Applicant is seeking to demolish the brick patio, modify the fence to sit on property line, and installation of an inground pool, pool patio, pool deck, pool barrier and wall all within the water bluff overlay.

Review Status: Public hearing has been scheduled for April 27th.

Trapani, Dorothy: Special Use Permit: 1 Prospero Drive, SBL:88.17-4-21

Applicant is seeking a special use permit to legalize an accessory apartment.

Review Status: Public hearing has been scheduled for April 27th.

Boyd, Frank: Special Use Permit: 73 Hurds Rd. SBL #94.2-2-27

Applicant is seeking a special use permit to legalize an accessory apartment above the garage.

Review Status: Public hearing has been scheduled for April 27th.

New Short-Term Rentals (Public Hearings)

Frank Boyd: 73 Hurds Rd: SBL #94.2-2-27

Review Status: Application and documents sent to the board.

Potential Action: Open the Public hearing.

Frank Boyd (Applicant) said that the apartment is 625 square feet studio above the garage. Occupancy is 2 people. It has a bathroom and a kitchen. It has its own 1,000-gallon septic tank, which they just had empty and inspected. There is parking in the driveway, near the entrance. There is a deck on the back with an egress route.

Scott asked if they had a large enough sign.

Frank replied yes.

Scott asked if they live on the property.

Frank said they do, they will not be renting to folks when they are not there.

Scott asked if the parking space was large enough for the renters and them.

Frank replied yes.

Scott asked if he was aware of the noise ordinance, no on street parking.

Frank replied yes.

Scott asked for a motion to open the public hearing.

Motion made by Franco, 2nd by Gerry.

All ayes motion passed to open the public hearing.

Bill said that he is confused that he has a public hearing on the 27th for the apartment, but they are doing this one now?

Dave said that they are scheduled as soon as we send the notice out in order to expedite the short-term rentals. He won't get approval tonight because they have to legalize it next week. If the board decides to legalize the accessory apartment, but if the board does decide to legalize the accessory apartment, the board next week would also simultaneously approve the short-term rental.

A member of the public asked what a short-term rental was, is it like an Airbnb?

Dave said yes.

A member of the public asked what is an accessory apartment.

Scott said that would be an apartment for full time use.

Franco said a long-term rental up to 650 square feet.

A member of the public said that there might be some confusion between a short-term rental and an accessory apartment, especially if they are looking for both things.

Scott said that he has a building that needs approval for an accessory apartment, however he chooses to use that accessory apartment is up to him. At that point he is asking for a short-term rental.

Franco said what he is looking to do is to legalize that first. He has to do that first before he can proceed to the second part.

Scott said the board is only opening the public hearing for the short-term, it won't get approval today. The board has to see that he has a legal apartment in order to do so.

Carl asked short-term rentals are continuous for 6-months only.

Dave said it's a two year permit, then they come back to the building department.

Carl said he meant for someone to actually stay there.

Dave said there is no limit. There is no max or minimum limit, whatever the rental turns into. Typically, in his experience it's a week, a weekend, the max he has seen is two weeks.

Frank asked is the legalization question answered.

Scott said the accessory apartment is next week. The board has not voted on whether or not they are going to get that.

Franco said that this is a workshop and that would be done at a regular meeting, which is next week.

Micah Straight: 14 Tina Drive: SBL #87.3-3-19

Review Status: Application and documents sent to the board.

Potential Action: Open the Public hearing.

Micah (Applicant) said that it is a non-resident for his family, he uses as a vacation home. It is a 3-bedroom house, with 3 parking spots off the street. Max capacity is 6 people. They have gone through the approvals with the fire inspection.

Franco asked in case of an emergency do you have someone who is local.

Micah said that he has David Wagner who lives in New Paltz and he would be on call for any emergency.

Scott said no one else lives at the property.

Micah said yes.

Scott asked if there was a large enough sign, so people know where they are going.

Micah said yes it is posted on the mailbox by the street.

Scott said that you are aware that some public was received.

Micah said that he saw one of them.

Scott said that the board had received two of them.

Scott asked for a motion to open the public hearing.

Motion made by Franco, 2nd by Gerry.

All ayes motion passed to open the public hearing.

Robert (4 Tina Dr) said that he is against this the neighborhood is close and it is not on a road where people will be travelling through. Even though they have person who is going to be in

New Paltz that's great, but it's not going to help them on a Saturday night, if the people who rent it happen to be a bunch of drunk kids going up and down the street. There a lot of young kids on the street, its not a high speed road, they have had issues with people trying to party at the top of the hill in previous years. It is not a neighbor to have weekend guests. It will happen, there will be incidents. They are already renting it and he doesn't know how they could be. They have strangers in the neighborhood that they don't know. When a incident happens he will call and let the board know.

Linda DiLorenzo (22 Tina Dr) said that everyone on the road is family, it is a very unique road, they all know each other and are there for each other. This has nothing to do with the family that bought the house as she has met the family. She is concerned about people coming and going, staying over on their street with their kids out and about.

John DiLorenzo (22 Tina Dr) said that their neighborhood is residential, private area he feels this is commercializing the neighborhood and feels that it is not the right thing to do to a quiet neighborhood with a lot of children. He thinks that it is a very dangerous precedent to set in a private road. The hill on Tina drive is dangerous, the firemen have issues if they have to get up there. To have people they don't know start flying up the road to see what's on top with children out. People do not look out for the children. They had one family that was there, their children were playing in the road.

Paul (9 Tina Dr) said that he agrees with the neighbors. He said that this street is residential, it is a dead-end street, and it also has a steep grade. His major concern is that if the person who purchased this purchased it to live in it the majority of the year as a residence, he would have no complaint. Clearly it was purchased as a commercial venture. Short-term rental to him sounds like it's not residential. The zoning on this street is purely residential and this is a commercial venture.

Jim (20 Tina Dr) said that this community is a unique place, it is a residential area. This is a commercial venture, it is something that is not in the interest of the neighbors. His daughter is a social child and it is dangerous to have people they don't know coming and going.

Allison (20 Tina Dr) said so far the only people to make use of this property are either visiting children in colleges or using hiking facilities which none of them are in Highland. This doesn't provide any benefit to the neighborhood or town.

Jim said it is clearly a safety concern, it sets a dangerous precedent. If this happens then what happens next.

Amy (19 Tina Dr) said that people don't come and go a lot and they know their neighbors, they know her kids. This hasn't been an issue yet, but if you get some reviews, that say there is a cider bar nearby that you can walk to. She dreads that if this goes though and you end up with young adults staying there, walking over drinking and coming back and start giving trouble to their kids. She doesn't think it would be as big of a deal in a more urban area or even in a more rural area where the houses are spread out.

Greg (19 Tina) said this street is open and closeness, that would be threatened by strangers coming in.

A member of the public asked what about his question about it being rented without the permit.

Scott said that before the law there were no rules for them follow, now there is a law and they are before the board because they have followed the law. The board cannot say no unless there is a major issue, not they have made their decision. Anything that happened before, you bring to the board now and it gives them a sense of what they are looking for at the next permitting of the special use permit. For example, if they do get the permit, two years from now they are going to reapply, but if someone came in a made valid complaints that can be tracked, then they have the opportunity to say you didn't comply those two years that they won't get the permit.

Dave said that if the complaints come in and are found to be valid, the permit can be revoked prior to the two year renewal.

Amy said that she knows a lot of the towns have regulations and a lot of the towns require owner occupied homes, you cannot rent out less than one month.

Dave said that you are correct with that, but it is against the law to require owner occupation. The 5th circuit determined that regulating and requiring home occupation by an owner is an infringement of the 14th amendment commerce clause. The commercial piece the 3rd circuit agrees that this type of use is a residential type use, even though someone mentioned that it is a commercial use. The laws tell the board how to act when an application comes in and they will do their best to make sure that all of their concerns are mitigated in some way and if they cannot find a way to mitigate them, then they would have grounds to deny the application.

Amy asked what about limiting weekend rentals, where she goes to visit family they only allow people to rent out weekly.

Dave said it is not in their code. It would be something that could be brought to the Town Board and ask them to think about.

Paul said that he thinks it's important for the neighbors who are there to understand that where the board is dealing with pre-existing short-term rentals, the board is essentially just legalizing them and trying to deal with specific issues that have been brought to the board's attention. The overall character of the neighborhood will apply when you look at new STR applications, but as you mentioned, at the outset for these pre-existing ones that ship has somewhat sailed and there are regulations that apply to them and the owners of the STRs are expected to comply, if they don't comply then they risk losing the ability to continue operating a STR in the future.

Carl said that character of the neighborhood may not apply because that was not included in the STR code.

Paul said that there is a difference between pre-existing STRs and new STRs, when someone was legally operating an STR prior to January 1, 2023, the board gave them an opportunity to show

that they are in compliance and the hearings that the board are holding are really to address some of the issues that have come up along the way. The board has talked about the septic issues and have worked through that really well. If there were specific noise issues or visual impact issues, or driveway issues the board has worked through those. When you get a new application in front of the board and if there are some of the same neighbor concerns come to the table. The board can take that into account and as part of the special use permit criteria for deciding to approve or deny a STR permit, it is much harder to deny a STR permit for a pre-existing use.

Micha said that he manages other short-term rentals and has really great success, with having wonderful guests and has had no issues. His families vision is to be an addition to the communities that they are a part of, he carefully selects guests, they have a very high rating as managers, they only select people that they have confidence in. Their intention is to not have a negative impact on the community. He hopes at some point to live in the house one of his daughters is looking at SUNY New Paltz and he loves the area.

Bill said that he noticed that there were issues with the septic and then that he had it pumped was it resolved. The other question is that there are 2 bedrooms and a loft area with 6 people as an occupancy, is that considered okay.

Gerry asked how big is the septic tank.

Bill said 1,250.

Franco replied that is good for 3 bedrooms.

Carl asked if the loft is considered a bedroom.

Dave replied it can be. The way the code reads it is not bedrooms it is sleeping areas, so yes the loft can be used as a bedroom.

Scott said the size of the septic and the loft being used as a bedroom would equate perfectly.

David Lombardo: 8 Sheep Lane: SBL #95.2-3-7.100

Review Status: Application and documents sent to the board.

Potential Action: Open the Public hearing.

David (applicant) said it is his own house that he is looking to do some short-term rentals out.

Scott asked off-street parking large enough.

David said yes.

Scott said that the application is for 10 people. How many bedrooms do you have.

David said 4.

Scott asked is this part of the main house.

David said it is the entirety of the house, on a limited basis as well. It is just really seasonal.

Scott asked if he had a large enough sign on the property.

David said yes.

Scott asked if the property lines were marked out.

David said yes.

Scott asked if the neighbors were all good with him.

David said yes, they are all extremely supportive of him and he couldn't ask for better neighbors.

Gerry said regarding the number of bedrooms and the number of guests.

Scott said 2 people per bedroom. He is asking for 10 people.

Gerry said 4 bedrooms, would be 8 people.

Scott said unless you can show us the low flow fixtures.

David said that other 2 is really just for children, if parents want to have their children stay there. He physically has 4 beds, and then he will put out an air mattress or a crib for the kids.

Scott said that they size them according to the number of bedrooms, 2 people per bedroom, which puts them at 8.

David said he has no problem with making it 8.

Scott asked for a motion to open the public hearing.

Motion made by Franco, 2nd by Gerry.

All ayes, motion passed to open the public hearing.

No public comments

Michelle & Steven Yu: 17 Deller Rd: SBL #95.16-1-20

Review Status: Application and documents sent to the board.

Potential Action: Open the Public hearing.

Scott asked for a motion to open the public hearing.

Motion made by Franco, 2nd by Bill.

All ayes, motion passed to open the public hearing.

No public comment

Continued Short-Term Rentals

Lindsay Allison: 148 Bellevue Rd: SBL #88.1-3-24.115

Review Status: Public hearing closed on 3/23/23.

Administrative Business:

Silver Gardens

Applicant is requesting a 1-year extension for site plan approval and a 90-day extension for subdivision approval.

Dave said that the only reason the board would want to deny the extension is if they found some matter of fact that they could apply against it.

Bill asked if this was the project that needed additional time for finance.

Dave replied yes, New York State is a part of the application, so they have been working with them to move things along.

Justin (applicant's agent) said that they are still waiting for funding and hope to hear in the next week or so.

Paul said they board can give 90-days out unlimited, the only limitation is that the board can only give 2-one year site plan extensions and this will be the second one.

Scott asked for a motion to approve the extension with a resolutions to follow.

Motion made by Carl, 2nd by Bill.

5-ayes, 1-nay (Gerry Marion), motion passed to approve the extensions.

Board Discussion:

A board discussion on The Villages took place.

Motion to Adjourn.