

TOWN OF UNION VALE PLANNING BOARD

MINUTES OF THE REGULAR MEETING

**August 16, 2017**

**BOARD MEMBERS PRESENT:** Chairperson Kevin Durland, Board members Alain Natchev, Michael Mostachetti, Karl Schoeberl, Scott Kiniry, Kaye Saglibene and Pasquale Cartalemi

Alternate Members and Members absent: Board member Karl Schoeberl, Alternate Board Alternates John Rapetti and Ralph Mondello

Others present: Town Engineer, Lawrence Paggi, Town Attorney, Michael Liguori and Town Planner, Liz Axelson

**CALL TO ORDER / DETERMINATION OF QUORUM**

Chairperson Kevin Durland called the meeting to order at 7:30 pm and determined a quorum was present to conduct business.

**BUSINESS SESSION**

• **Meeting Agenda.**

Chairperson Kevin Durland asked for a motion to accept the agenda as published with one addition under new business, the Matter of Mr. Axeman for a certificate of visual compatibility, seconded by Michael Mostachetti.

• **Planning Consultant's Meeting Notes.**

Chairperson Kevin Durland asked for a motion to accept the Planning Consultant's Meeting Notes, motion by Board member Scott Kiniry, seconded by Board member Alain Natchev, accepted unanimous vote of the Board members present.

• **Minutes.**

Chairperson Kevin Durland asked for a motion to defer the June 21, 2017 and July 19, 2017 regular meeting minutes to the September 20, 2017 meeting, motion by Board member Scott Kiniry, seconded by Board member Kaye Saglibene and unanimous vote of the Board members present.

**PUBLIC HEARINGS:**

There are no scheduled public hearings.

**REGULAR SESSION (OLD BUSINESS) -**

## DRAFT

**Hitsman Garage Kiniry Special Use Permit Review; 3389 Route 82, Verbank, NY 12585; Parcel Grid # 6663-20-850049; Owner: Scott Kiniry;** - This proposal involves a Special Use Permit and SEQR Review to use the existing 3,688± gross square foot (SF) building and to construct a 984 SF canopy. The site is located in the NC (Neighborhood Commercial) zoning district on a 0.76-acre-site; and the proposed action is a Type 2 Action under SEQR.

Chairperson Kevin Durland welcomed the Kinirys.

Art Brod, representing the Kinirys, spoke to the Board relaying that the Kiniry's would like to withdrawal their waiver request which was sent via email at 2:12 pm today.

Mr. Brod stated that the Kiniry's have a revised plan that was presented to the Board and its members, it addressed some technical comments that were of concern from the Town Planner and Town Engineer previous comment letters. The revised plans also depict the landscaping and canopy setback, which were set forth in the CEO's, George Kolb's letter recommendations dated July 19, 2017.

Mr. Brod stated that there are two things before the Board this evening. One being a Waiver request regarding the canopy, that is set forth in the code that such waiver can be granted by the Planning Board, so that an area variance does not need to be granted. The Town planner stated for the Board that a variance is forever granted with the property, it will stay with the property. If such waiver is granted, and the property is sold and the next owner may have to acquire such variance at that time. Board member Alain Natchev stated he understands the benefit of the applicant going through the Planning Board for a waiver, but a variance is still desireable for the canopy for such encroachment on the front yard setback, but I am not opposed to granting the waiver if the safety and welfare is a concern, which in this case it can be, covering the residents while obtaining fuel.

Mr. Brod stated the second thing that is before the Board is the revised Site Plan, it can possibly get conditional approval endorsement by this Board tonight, with a positive referral to the Zoning Board of Appeals regarding the 25 foot buffer requirement, the Kinirys are requesting a variance from that requirement that a 13 foot width area variance buffer for 70 feet then a 19 foot width area variance for 75-80 feet on the rear setback of the property, which adjoins an adjacent residential neighbor.

Board member Kaye Saglibene stated that the canopy is going to be a safety asset, for the residents are going to be out pumping their gas in all kinds of weather, and the canopy is going to shelter them, I am in favor of the waiver.

Chairperson Kevin Durland moved on after discussion that the Planning Board and its members were in favor of granting a waiver for the canopy, but still had to further discuss the 25 foot buffer requirement.

Town Planner stated that it is upon recommendation of the CEO, George Kolb, letter dated July 19, 2017 regarding the buffer. Town Engineer, Lawrence Paggi asked the applicant to explain what the buffer looks like to the Board. Tanna Kiniry approached the Board and explained that the buffer is going along the rear setback of the property, they will be requesting a variance of approximately 13 feet for a section of say 70 feet, then a variance of approximately 19 feet for a section of say 75-80 feet, so that they do not have to demolish the rear corner of the building in order for vehicles to access the rear of the building.

Board member Michael Mostachetti questioned one section of the rear of the property that adjoins the neighboring property, he understands that the large pine trees are on the neighboring property, but if he lived on the neighboring property and decided to cut those large pine trees, he expressed that he would not like to see a parking lot, and feels that the commercial landowner should provide some screening that would be on the commercial lot.

Chairperson Kevin Durland offered the following draft resolution for the Boards consideration

**D R A F T**  
**Resolution: Approving the Hitsman/Kiniry**  
**Special Use Permit and Site Plan with Conditions**

“The Town of Union Vale Planning Board hereby acts as follows in the matter of an Application known as the Hitsman Garage / Kiniry Special Permit & Site Plan under Town Code Chapter 210 Zoning for redevelopment of an existing gas station site for use as a convenience store and gas station at a site located at 3389 Route 82, Verbank in the NC (Neighborhood Commercial) Zoning District, as described or otherwise depicted within supporting information including site plans prepared by Donald P. Fegan, PE, previously dated October 25, 2016, with latest revision dates on all plan sheets 1 through 5 of July 31, 2017:

1. The planning board recommends, giving site constraints, and based upon the letter dated July 19, 2017 by the Town of Union Vale CEO, in favor of any variances necessary, from the buffer requirement, relating to parking areas for an approximate length of 70 feet of a 12 foot depth planted buffer and an approximate length of 74 feet of a 6 foot depth planted buffer as depicted on Site plans with annotated drawings and numbers.
2. Grants a waiver as per zoning section 210-59, A.(5) of the convenience store standards in section 210-56, E.(5)(c)[2][a], regarding the required 40’ setback from the front lot line to allow a reduced setback based on reasoning in the Town Consulting Planner’s letter of July 11, 2017, specifically comments numbered: A.1 and C.3.a; and any reasoning provided by the Planning Board; and
3. Approves the Special Use Permit and approves the Site Plan based on the following conditions:
  - a. Obtain variance from Zoning Board of Appeals regarding buffer requirement;
  - b. Payment of any outstanding fees;
  - c. Address the comments of the Town Consulting Engineer as set forth in the letter of August 16, 2017, specifically comments numbered 4 through 17; and
  - d. Address the comments of the Town Consulting Planner as set forth in the letter of July 11, 2017, specifically comments numbered: C.1 through C.5.”

A motion to adopt the above-stated Resolution was made by Board member Pasquale Cartalemi and seconded by Board member Alain Natchev.

The below roll call vote was taken by Chairperson Durland:

Member Pasquale Cartalemi	Aye
Member Scott Kiniry	recused
Member Michael Mostachetti	Aye
Member John Rapetti	absent
Member Karl Schoeberl	absent
Member Alain Natchev	Aye
Alternate Member Ralph Mondello	absent
Alternate Member Kaye Saglibene	Aye
Chairperson Kevin Durland	Aye

## DRAFT

and the Chairperson declared the Resolution:

Adopted 5 votes

Resolution certified and filed:

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Joan E. Miller  
Planning Board Secretary / Clerk

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August 16, 2017

### **REGULAR SESSION (NEW BUSINESS)**

Chairperson Kevin Durland stated that he received a call from the CEO, George Kolb this afternoon regarding a gentleman that was in his office for a building permit, but he needed a Certificate of Visual Compatibility, being that where he is building is at an elevation of 800+/- feet and anything above the 750+/- foot elevation requires a Certificate of Visual Compatibility from the Planning Board. Mr. Kolb asked that the Planning Board Chairperson to put Mr. Axeman on the agenda for discussion.

Mr. Dan Axeman explained that he purchased property on 178 Mallory Road and went to apply for a building permit, but was referred to the Planning Board for a matter of Certificate of Visual Compatibility due to the elevation of the proposed building site is 860 feet in elevation. The home site is an open field, there will be no clearing of trees and the perimeter of the property is lined with mature trees and underbrush, which will remain. I have not intentions of removing the underbrush that lines Mallory by the driveway entrance.

Town Planner asked what are the materials you are using for the house. Mr. Axeman stated that the siding will be darker blue vinyl siding, with architectural shingles, some stone work will be done around the house, with white trim. The house will be two stories.

With brief discussion between the Board members, Town attorney researched the code 210-48, Environmental Overlay, and as it states, Upon a complete application for a certificate of visual compatibility, the planning board shall issue its determination within a period of not more than 62 calendar days and may in the interim consult with other persons or agencies at its discretion conduct a public hearing.

Chairperson Kevin Durland and the Board members, Town Planner and Town Attorney went over all the required criteria set forth in the code for obtaining the Certificate of visual compatibility and it was determined that the applicant, Mr. Axeman met the requirements.

Chairperson Kevin Durland offered the below draft resolution for the Boards consideration:

**D R A F T**  
**Resolution: Approving Dan Axeman**  
**Certificate of Visual Compatibility**

“The Town of Union Vale Planning Board hereby acts as follows in the matter of an Application known as the Dan Axeman, Certificate of Visual Compatibility under Town Code Chapter 210 Zoning, the Planning Board makes the motion that upon consideration of the plans submitted by the applicant, and review of the criteria set forth under 210-48, Environmental Overlay, find it to be consistent with the criteria set forth in the Zoning code and therefore makes a motion to issue a Certificate of Visual Compatibility”

**DRAFT**

A motion to adopt the above-stated Resolution was made by Board member Michael Mostachetti and seconded by Board member Pasqual Cartalemi.

The below roll call vote was taken by Chairperson Durland:

Member Pasquale Cartalemi	Aye
Member Scott Kiniry	Aye
Member Michael Mostachetti	Aye
Member John Rapetti	absent
Member Karl Schoeberl	absent
Member Alain Natchev	Aye
Alternate Member Ralph Mondello	absent
Alternate Member Kaye Saglibene	Aye
Chairperson Kevin Durland	Aye

and the Chairperson declared the Resolution:

Adopted 6 votes

Resolution certified and filed:

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Joan E. Miller  
Planning Board Secretary / Clerk

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August 16, 2017

**Steven and Irene Habiague: 84 Mountain Creek Road, Poughquag, NY 12570;** Application for Lot Line Alignment on TMP 6680-00-780454 and TMP 6860-00-679500, merging 13.92 acres with 19.29 acres to create a total of 33.21 total acres on TMP 6860-00-780454, being an unlisted action under SEQRA in the RD10 District.

Mr. Habiague approached the Board and handed in plans that were prepared by their engineer, Joseph Berger, PE, depicting the proposed lot line change between Irene and I own. Mr. Habiague explained that the red line shows where the new lot line will be and the total acreage is 33.2, when the two lots (one being 13.92 acres and the other 19.29 acres). Mr. Steven Habiague explained that they have a buyer under contract for their property that they have had for sale, it is detrimental that we get this lot line to move forward in order to not lose the sale of the property. We are asking the Planning Board tonight to move forward with our application, for we submitted it months ago.

Chairperson Kevin Durland stated that it was been delayed due to there was no escrow money posted for review of the project, the CEO, George Kolb requested escrow be posted and I requested from you that escrow needed to be posted before we could move forward with your application.

Mr. Habiague stated that this is a simple lot line change, it does not need to be sent out to the consultants for review, it is a matter of numerical acres and survey lines.

**DRAFT**

The Town Planner stated that she does not have any comment, for escrow has not been posted, so therefore she has not done any review.

Chairperson Kevin Durland stated that there are some concerns with the submitted plans, they are missing the driveway that was seen by the CEO, George Kolb, and they don't depict where the wells and septic for the two homes are located.

The Town attorney asked if there was an easement for the utilities, and what does it state. Board member Kaye Saglibene asked what utilities were buried, and are they all included in the easement agreement?

The Town Planner stated that an EAF needed to be reviewed and an SEQRA determination needs to be determined, so that can happen at the next meeting, if the proper information was submitted for review, as well as escrow money posted.

After discussion, Chairperson Kevin Durland concluded that the applicant needed to revise the plans to depict the Driveway shown on the map that was seen by the CEO meets the Town code requirements, show the locations of the wells and septic on the map, have the provisions of the easement(s) provided to the Town Attorney for review and post Escrow in the amount of \$1500 dollars to be given to the CEO, at the Town Hall.

Chairperson Kevin Durland also made the motion to schedule a public hearing to take place on September 20, 2017, at 8:00 pm to make a SEQRA determination then proceed with the Lot Line Application, seconded by Pasquale Cartalemi.

The below roll call vote was taken by Chairperson Durland:

Member Pasquale Cartalemi	Aye
Member Scott Kiniry	Aye
Member Michael Mostachetti	Aye
Member John Rapetti	absent
Member Karl Schoeberl	absent
Member Alain Natchev	Aye
Alternate Member Ralph Mondello	absent
Alternate Member Kaye Saglibene	Aye
Chairperson Kevin Durland	Aye

and the Chairperson declared the Resolution:

Adopted 6 votes

Resolution certified and filed:

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Joan E. Miller  
Planning Board Secretary / Clerk

\_\_\_\_\_  
August 16, 2017

**DRAFT**

**ADJOURNMENT**

Chairperson Kevin Durland made the motion to adjourn the meeting at \_\_\_\_\_ pm, seconded by Board member Alain Natchev, and unanimous vote of the Board members present.

**NEXT MEETING / SUBMISSION DEADLINE**

The next Regular Meeting of the Town Planning Board is scheduled to occur on Wednesday, September 20, 2017. The Agenda for the meeting will close on Wednesday, August 23, 2017 at noon hour. Both new applications of any type and all continuing submissions regarding site plans, subdivisions, special permits or other agenda items to be considered at the meeting must be received in their entirety at the Planning Board Office in required number, with all required application fees paid and required escrow deposits made, not later than the close of agenda.

Respectfully Submitted,

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Joan E. Miller  
Planning Board Secretary / Clerk