

Planning Board Meeting  
Town of Clay  
December 14, 2016

**APPROVED**

The regular meeting of the Planning Board of the Town of Clay, County of Onondaga held at Town Hall located at 4401 State Route 31, Clay, New York on the 14<sup>th</sup> day of December 2016. The meeting was called to order by Chairwoman Guinup at 7:30 PM and upon roll being called, the following were:

<b>PRESENT:</b>	Karen Guinup	Chairwoman
	Russ Mitchell	Deputy Chairman
	Hal Henty	Member
	Allen Kovac	Member
	Michelle Borton	Member
	James Palumbo	Member
	Brian Hall	Member
	Mark Territo	Commissioner of Planning & Development
	Ron DeTota	C&S Engineers
	Scott Chatfield	Planning Board Attorney
	Gloria Wetmore	Planning Board Secretary

A motion was made by Michelle Borton seconded by Jim Palumbo to approve the minutes of the previous meeting.

**Motion Carried 6-0** *Brian Hall abstained; he was not at the previous meeting.*

**Public Hearings:**

**New Business:**

**\*\*7:30 P.M. Case #2016-048 – *New Court St., LLC*(3) – Special Permit/Contractor’s Service Yard – 8531 Oswego Road**

Karen Guinup opened the public hearing. Brian Bouchard of Clough Harbor Associates was present for the applicant. Brian explained that the Town Board granted the zone change from NC-1 to I-1; the special permit is mainly to organize the site. Sheds will be up front and the asphalt will be behind the building. An 8ft vinyl fence and a berm to screen the drainage.

Karen asked if the storage is for masonry. Are the sheds sold retail? Please point out on the plan where the sheds are assembled. Karen asked if retail is an allowed use in I-1. Mark Territo said it is if it is an accessory to the business.

Karen also pointed out that the fence is encroaching on the adjacent property, that will have to be moved, also there are no fences allowed in the County right of way.

Mark said they will have to go to the ZBA for interpretation.

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Karen asked if any board members had any questions, Jim Palumbo if the tile, marble, and granite slabs would be stored in back of the building. Mr. Bouchard said they would.

Brian Hall asked if there would be something separating the gravel display area from the parking area. He also asked if the containers out back are also for storage.

Michelle Borton asked if the septic would be looked at and if the water usage would increase, will they add more fire hydrants.

Karen asked if the Town had a copy of the trip generation. Mr. Bouchard said he would make sure to get a copy to the Board .

Karen asked if anyone else had any questions, hearing none she said the Board will need a copy of the trip generation and a letter from the DEC. Then the applicant will have to come back for Site Plan approval. Karen closed the public hearing.

A motion was made by Russ Mitchell seconded by Brian Hall to adjourn this case to the January 11, 2017 meeting.

**Motion Carried 7-0**

**\*\*7:35 P.M. Case #2016-052 – John Mezzalingua Associates, LLC, DBA JMA, 7645 Office Expansion (3) – Amended Site Plan – 7645 Henry Clay Blvd.**

Karen Guinup opened the public hearing, Gail Cawley and Caroline Bean were present for the applicant, and the design is for a single story structure with the capability of becoming a two story.

The applicant received a variance for a 200 ft easement at the last ZBA meeting.

Karen referred to the County comments; she said the County was looking at the whole plan not just the C-100, both properties and the parking is on sheet C-101 you need to remove this page , include the variance on the corrected sheet.

Karen asked if there were any questions. Michelle asked if they meet the parking requirements. They will include the parking when they come back before the Board next month.

Jim asked if the board would be moving on the whole plan or just the addition.

Jim Palumbo moved the adoption of a resolution using standard form #10 SEQR, for PB Case 2016-052 Mezzalingua Associates, LLC, DBA JMA, 7645 Office Expansion located at 7645 Henry Clay Blvd. that the proposed action is an unlisted action and does not involve any Federal Agency. It is further determined that the proposed action will not have a significant effect on the environment and will constitute a negative resolution for the following reasons, the proposed addition development will not have any adverse impacts to the surrounding area, lighting, noise and air. Seconded by Al Kovac.

**Motion Carried 7-0**

Jim Palumbo moved the adoption of a resolution using standard form #20 Amended Site Plan approval for PB Case # 2016-052 Mezzalingua Associates, LLC, DBA JMA, 7645 *Office Expansion* located at 7645 Henry Clay Blvd. Based on a map by EDR dated 11/28/2016 revised 12/13/2016 and numbered C-100, C-101, C-200, C-600 and C-601 conditioned on all legal and engineering. Both parcels shown will be combined as one.

Seconded by Russ Mitchell.

**Motion Carried 7-0**

**Old Business:**

**\*\*Case #2016-003 – J. Alberici & Sons Inc., *Woodside Estates Apartments* (3). – Site Plan– Oswego Road adjacent to Shoveler Lane (Adjourned from 12 previous meetings).**

Karen opened the hearing, Brian Bouchard presented the plan, these are townhomes, on a private road. Each unit has a garage; the driveways were either doubled in width or in length to accommodate 4 vehicles. They are still working on the location of the mail boxes. The storm water was revised; they will disconnect the roof leaders. The roads will be asphalt, the street lights will be acorn shades on 15 ft poles.

Karen asked if the board had any questions, Michelle asked if there will be any screening between the townhomes and the existing homes. Brian said there are trees and brush. Jim asked if there were only 2 trees. Brian said yes 1 8ft and 1 2ft spruce trees.

Ron DeTota explained that this is a planned district from back in the 1990's. The DEC reworked the drainage, there is no development allowed in the waterways. FEMA sets the standards for water management. The watershed would remain out of harm's way. There is a 10,000 page report. The Town had done an excellent job.

Karen opened the floor to the residents; she explained that this project is already approved for apartments. A resident wrote a letter to the Planning Board, see attached. Dick and Penny Dolan of 8364 Redwing Drive spoke, Mr. Dolan began the ground doesn't absorb the water. The stream is higher than it has ever been since S.O.S. has gone in.

Ron Detota had a lengthy discussion on drainage, grading, there is so much that goes into the planning and final approval on these projects. Everything is taken into consideration.

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Karen said that C&S Engineers has worked for the town for many years and has done an exemplary job.

She asked Jim Palumbo if he had looked at the landscaping plan, he said he did.

Karen closed the public hearing. She said when the applicant comes back the Board will need a photometric plan and CLOMAR.

A motion was made by Hal Henty seconded by Al Kovac to adjourn this case to February 8, 2017.

**Motion Carried 7-0**

**\*\*Case #2016-008 – *Fox Dealership* (3) - Site Plan - 3687 NYS Route 31 (Adjourned from 8 previous meetings)**

Karen said there is no one to present, and asked if there were any comments or questions. Hearing none she said the applicant asked if the Board would do a SEQR the Members of Planning Board did not respond.

Karen asked for a motion to adjourn.

A motion was made by Brian Hall seconded by Al Kovac to adjourn this case to the 01/25/2017 meeting.

**Motion Carried 7-0**

**\*\*Case #2016-009 – *Nichols LD, LLC (Liverpool Sports Complex)*, (3) - Site Plan – 7286 Oswego Rd. (Adjourned from 4 previous meetings).**

A motion was made by Hal Henty seconded by Jim Palumbo to adjourn this case to the 02/22/2017 meeting.

**Motion Carried 7-0**

**\*\*Case #2016-013 – *America Stores – It* (3) - Site Plan – Oswego Road across from Mendenhall Road intersection (Adjourned from 5 previous meetings)**

Hal Henty left the Board at 9:30 P.M. and will not participate in this case. Karen opened the hearing. Joseph Mastroianni presented the case. The application was submitted for wetlands, the Army Corp of Engineers should respond within 90 days. The Army Corp waits for the DEC letter; however the DEC wants the Town to approve SEQR before they will issue a letter.

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Karen asked if the Planning Board would be getting a letter from the DEC Mr. Mastroianni said they would. He had a meeting with the Army Corp on November 30, 2016, there is an existing swale behind the existing houses, the applicant plans on filling that in installing a pipe to divert the runoff to the catch basin.

Karen asked about all the trees that have been cut down, will removing the stumps cause an issue with the drainage.

Karen asked the Board Members if there were any questions or comments.

Michelle asked what kind of water quality practices you have in place. Mr. Mastroianni said there will be a detailed plan for runoff.

Jim the evergreen berm is nice, looking at the lighting plan we need photometric and detail on the fixtures and poles.

He does not like the chain link fencing, and suggested ornamental wrought iron for the front and sides.

Russ said he is glad you are addressing the fence. A 6 ft fence is a good neighbor thing; it's more than just blocking car lights.

Karen asked the residents if there were any questions.

Nancy Platz, of 3648 Black Brant Dr. stated that there is a real problem with drainage, she had to pay to have a drainage pipe put in to keep the water away from her house. She also wants a 10 ft fence.

Karen said the Town code doesn't allow 10 ft fences.

Bill Rounds of 3666 Black Brant Dr. stated that this area has older residents and the trees that are being proposed won't grow fast enough, there needs to be a solid barrier.

Noreen Chalk of 3674 Black Brant Dr. asked about the Planning Board being lead agency, Scott Chatfield explained what that means.

She also asked if the detention pond could be put somewhere on the property. Mark Territo said they are typically towards the rear of the property; however you could go to the ZBA meeting and ask for it to be moved.

Kevin Hamlin of Black Brant Dr. asked if it was possible to have evergreens planted along the back of the property line in addition to the fence to block the view.

Jerry Stewart 3672 Black Brant Dr. There is a drain at the back of his property. He showed the Board a picture of the Site from his back yard.

Karen added that there was a letter sent to the Board members and will be included in the minutes.

Hearing no more comments Karen asked for a motion.

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A motion was made by Michelle Borton Seconded by Al Kovac to adjourn this case to the January 11, 2017 meeting.

**Motion Carried 6-0**

**\*\*Case #2016-027 – *Avicelli's Restaurant* (3) – Amended Site Plan – 7839 Oswego Road (Adjourned from 5 previous meetings)**

Chairwoman Guinup stated that this would be denied without prejudice. The public hearing was closed.

A motion was made by Russ Mitchell seconded by Jim Palumbo to deny without prejudice because there has been no response from the applicant.

**Motion Carried 7-0**

**\*\*Case #2016- 034– *Greg Card Property, Hidden Lake Woods* (3) – Preliminary Plat– Guy Young Road near Cicero Boarder. (Adjourned from 4 previous meetings)**

A motion was made by Brian Hall seconded by Jim Palumbo to adjourn this case to the 1/11/2017 meeting.

**Motion Carried 7-0**

**\*Case #2016-042 – *McDonald's USA, LLC* (5) – Special Permit Referral – 4979 W. Taft Road. (Adjourned from 1 previous meeting).**

A motion was made by Russ Mitchell seconded by Jim Palumbo to adjourn this case to the 1/25/2017 meeting.

**Motion Carried 7-0**

**\*\* Case #2016-047 – *Robert Stamm, Smokey Bones* (3) – Amended Site Plan – 4036 NYS Route 31. (Adjourned from 1 previous meeting).**

Karen opened the hearing. Dee Fullerton presented the plan. All of the issues were taken care of. There will be a 5 ft fence around the fire pit and a glass enclosure that says “Caution Hot” Michelle said that the Plan was changed but not the revision date.

Michelle Borton moved the adoption of a resolution using standard form # 10 SEQR for Case #2016-047 – ***Robert Stamm, Smokey Bones*** Amended Site Plan located at 4036 NYS Route 31 that the proposed action is an unlisted action and does not involve any Federal Agency. It is further determined that the proposed action will not have a significant effect on the environment and will constitute a negative resolution for the

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following reasons, the proposed addition development will not have any adverse impacts to the surrounding area, lighting, noise and air. Seconded by Al Kovac.

**Motion Carried 7-0**

Michelle Borton moved the adoption of a resolution using standard form #20 Amended Site Plan approval for PB Case # 2016-047 – **Robert Stamm, *Smokey Bones*** Amended Site Plan located at 4036 NYS Route 31 Based on a map by Barker/Nester Architecture and Design, dated September 19, 2016 revised December 14, 2016 and project number N-1621T conditioned on all legal and engineering. Seconded by Hal Henty.

**Motion Carried 7-0**

**Signs**

**Allied Sign Company – *COR Plaza, Liberty Travel* – 3873 NYS Route 31**

Zoned RC-1, Permit #47,882

2 – Wall signs – Two 29.2 square foot signs proposed when a 40.8 square foot and 31.2 square foot signs would be allowed. The proposed signs will meet the code.

A motion was made by Hal Henty seconded by Brian Hall to approve the sign as presented.

**Motion Carried 7-0**

**Action Sign Company – *Herc Rentals* – 4578 Buckley Rd.**

Zoned I-1, Permit #47,885

1 – Freestanding sign face change – 44.5 sq ft when 32 sq ft is allowed. The zoning code allows non-conforming sign faces to be changed when there is no change in the primary use. The proposed will meet the code.

2 – Wall signs – A 6.25 square foot sign when 84.16 square feet is allowed, and a 92.8 square foot sign when 149.7 square foot sign is allowed. The proposed signs will meet the code.

A motion was made by Michelle Borton seconded by Russ Mitchell to approve the sign with the address number added.

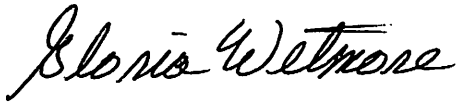
**Motion Carried 7-0**

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A motion was made by Jim Palumbo seconded by Al Kovac to adjourn the meeting at 11:05 P.M.

**Motion Carried 7-0**

Respectfully submitted

A handwritten signature in cursive script that reads "Gloria Wetmore". The signature is written in black ink and is positioned above the printed name.

Gloria Wetmore



Town of Clay Planning Board  
4401 Route 31  
Clay NY, 13041  
December 11, 2016

RE: America Stores it development by Filkins Acquisitions LLC

Dear Mr. Territo and members of the board:

I apologize in advance for the length of this letter but I believe you will find it worth your time to read completely.

My neighbors and I received a letter from Mr. Joseph Mastroianni of Mastroianni Engineering, PLLC dated December 5, 2016 inviting us to a "Neighborhood Meeting" he intends to hold at the King of Kings Lutheran Church on Wednesday December 14, 2016 to discuss the America Stores It project being developed by Filkins Acquisitions LLC. In his letter, Mr. Mastroianni has expressed that he wishes to discuss "a new development option, involving the visual buffer between your house and the project." I am including a copy for your review.

I am writing today because I will not be able to make the board meeting on December 14, 2016 as I have a prior commitment that evening and wanted to convey some issues I have with this project.

I personally have multiple issues with this meeting notice which are:

- 1) Mr. Mastroianni and Mr. Filkins held a similar meeting back in January of this year at the same location, the Lutheran Church to outline their plan. At that meeting a plan was presented that appeared to be acceptable to the residents of Black Brant Dr. After the meeting, Mr. Mastroianni asked those in attendance to indicate in writing whether they agreed with his plan as shown. Mr. Mastroianni and Mr. Filkins later attended a subsequent Zoning Board of Appeals (ZBA) meeting on February 8<sup>th</sup> at which they requested a variance of the zoning code allowing the project to erect storage sheds a mere fifteen feet from our property. They used the meeting at the church and the signatures affixed to the attendance paper as evidence that the residents had no problem with the ZBA request. The problem was that the plan shown to the residents at the meeting at the church did not consider their proposed storm water prevention plan and could not have been successful without the variance. You, the members of the board rejected his variance request for the rear of his project, and we the residents are grateful for that. ***Once the rear variance was denied, the developer tried to place the blame of having to remove the trees on us the residents, when in reality it would appear that his project needed to remove all those trees just to have room to accommodate enough units and allow for the storm water prevention plan if it was going to be financially viable.***
- 2) Since that ZBA meeting this project has been on the Town of Clay Planning Commission agenda five times and has yet to be approved. Some of those five times the residents showed up only to find that the developer pulled this project from the agenda earlier in the day, so we showed up for nothing. ***I would also like to point out that as of 11:00 AM December 11<sup>th</sup>, this project is on the Planning Board agenda for Wednesday December 14<sup>th</sup>. The exact same date and time that Mr. Mastroianni has this "Neighborhood Meeting" scheduled. Based upon past dealings, I can assure you that not just I but other residents as well, are concerned that this private meeting is an attempt to keep us from the board meeting.***
- 3) Mr. Mastroianni use of "Neighborhood Meeting" being in capital letters and quotations is concerning as it would appear he is giving the meeting a legal title. ***This could imply that the developer intends to use any comments or thoughts expressed by those in attendance, either negative or positive, to demonstrate approval at subsequent meetings with you the town planning board, again they did this at the February 8<sup>th</sup> ZBA meeting.***

- 4) Mr. Mastroianni says that the meeting “specifically involves the eighteen residences along the south side of Black Brant Drive.” If this development negatively impacts the property values of the “eighteen residences” wont all homes in the neighborhood be affected? ***Why was the rest of the neighborhood not invited and why is this being held outside of the actual panning board approval process with no one from the planning office or board in attendance?***

In my opinion, the developer has made it painfully obvious that he intends to do whatever he wants with his property. While I am totally aware that he has the right to remove trees etc. he has not once considered the wishes of us his neighbors. ***As of today he has removed nearly every tree. Based upon his actions, and a letter he sent to us his neighbors dated June 29<sup>th</sup> in which he accused some of the neighbors of spreading falsehoods, and threatened anyone who went on his property with pursuant trespassing claims, I fail to understand how anyone could think he suddenly has a change of heart and wants to be a good neighbor. I believe it more likely that he has a plan regarding the “visual buffer” that will benefit him either monetarily or will expedite either his permit or construction timing. I am highly suspect that he has the welfare of the residents as his highest priority.***

I believe it in the best interest of our neighborhood to continue to oppose this project with you the board. While we cannot stop this project I think we can make it more palatable on ourselves by asking you the planning board, to require a couple items on which their approval will be contingent. I would urge you to consider the sections of the code I have outlined below and ensure that the developer is meeting the following requirements as I understand them:

Town of Clay Zoning Code Chapter 230-16 RC1 states in part, “This district shall emphasize design to ensure compatibility with adjoining properties.” Section 230-16 (6) RC-1 Supplemental district design standards. In (c) Lot and structure design, scale and materials: subject to site plan approval.

***I feel the planning board require that the developer use some sort of material for his siding, other than the aluminum currently planned, which would allow the structures he plans to erect, to better match our homes and the surrounding businesses i.e. Carey and Daley and the Green Acres property across the street.***

Town of Clay Zoning Code 230-11 defines “PERIMETER LANDSCAPE STRIP –The land adjacent to the front, side and rear lot lines included within the same space for required setbacks but ***solely designed*** and used for transition between lots.” The same paragraph goes on to further state, “ It is intended that such perimeter strip be used for planting of trees, shrubs, flowers, and evergreens to provide neighborhood beautification.” Section 230-16 (4) RC-1 Lot structure dimensional requirements (a) RC site [1] The following site requirements shall supersede and override any of the following individual lot or structure requirements and shall collectively apply to all lots within the complex: [b] Site perimeter landscape strip: 30 feet [c] Additional site perimeter landscape strip abutting residential districts: 50 feet.

***I strongly urge you the members of the planning board to not allow his storm water retention ponds within the required 80-foot PERIMETER LANDSCAPE STRIP. These ponds appear to only serve the purpose of meeting the requirements of the storm water prevention plan. I believe allowing these within the PERIMETER LANDSCAPE STRIP would not meet the codes intended purpose of “planting trees, shrubs, flowers, and evergreens to provide neighborhood beautification as required by 230-11.***

Prior to your approving any proposed site plan for this project I would again ask you to consider the issues I am raising here and do what is best for the community in general not just what works for Filkins Acquisitions LLC.

Thank You for Your Time.

Sincerely

Lawrence E. Oberacker  
3664 Black Brant Dr.  
Liverpool, NY 13090  
(813) 334-7988



**MASTROIANNI ENGINEERING, PLLC**

*Professional Consultants*

**M E E T I N G   N O T I C E**

**TO:** Residents of Black Brant Drive  
**FROM:** Joseph A. Mastroianni, P.E.  
MASTROIANNI ENGINEERING, PLLC  
**DATE:** December 5, 2016  
**RE:** America Stores It Project

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Mastroianni Engineering, PLLC will be hosting a second informational “Neighborhood Meeting” on December 14, 2016 at 7 p.m., at the King of Kings Lutheran Church on Route 57. This meeting specifically involves the eighteen residences along the south side of Black Brant Drive, that border the America Stores It project property, being developed by Filkins Acquisitions, LLC. The purpose of the meeting will be to present and discuss specific details of a new development option, involving the visual buffer between your house and the project property. While there will be full site plans at the meeting, and general questions will be addressed, the main goal of this meeting is to discuss the visual buffer portion of the project.

At the meeting, we will have plans and details of this portion of the project for your review. Residents will be able to review the proposed site plans, and have any questions addressed that they may have. Those interested in attending the informational meeting should go the rear side door of the church, and will be in the same room as the previous meeting. The meeting will begin promptly at 7 p.m. and is expected to last approximately one hour, depending on attendance and the Q & A portion of the meeting.

If you have any questions about the meeting schedule, location, etc., please feel free to call (315) 278-0261. We appreciate it if you don’t call inquiring about detailed project information. That information will be presented and discussed at the meeting.