

Town of Union Planning Board Minutes
Tuesday, September 11, 2018

A regular meeting of the Town of Union Planning Board was held Tuesday, September 11, 2018, at the Town of Union Office Building, 3111 East Main Street, Endwell, New York.

Members present: L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster,
M. Jaros

Others present: Marina Lane, Stephen Dell'Aversano, Alicja Kosiba, Bonnie
Jenkins

A. CALL TO ORDER

Chairman Miller opened the meeting of the Planning Board at 7:00 pm.

B. MEETING MINUTES

- Page 1, Replace the semicolon after Lane with a comma under Others Present.
- Page 4, Delete the word "being" in the first sentence of the fifth paragraph.

1. Acceptance of July 10, 2018 Meeting Minutes

Chairman Miller asked for a motion to accept the 7/10/18 Meeting Minutes, as amended.

Motion Made: S. Forster

Motion Seconded: S. McLain

MOTION: Acceptance of the meeting minutes of July 10, 2018, as amended.

VOTE: **In Favor:** L. Miller, S. McLain, S. Forster, M. Jaros

Opposed: None

Abstained: L. Cicciarelli, T. Crowley

Motion Carried

2. Acceptance of April 10, 2018, Public Hearing Transcript – Olivander's Auction Special Permit for Outdoor Storage

Chairman Miller asked for a motion to accept the April 10, 2018, Public Hearing Transcript for Olivander's Auction Special Permit for Outdoor Storage, as written:

Motion Made: T. Crowley

Motion Seconded: L. Cicciarelli

MOTION: Acceptance of the April 10, 2018, Public Hearing Transcript for Olivander’s Auction Special Permit for Outdoor Storage, as written.

VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley, M. Jaros
Opposed: None
Abstained: S. Forster
Motion Carried

**C. Visions Federal Credit Union, 3301 Country Club Road, S. Dell’Aversano
1) Extension of Landscaping Deadline**

Ms. Lane stated that she met with Stephen Dell’Aversano and Lisa Darling of Visions, and Mike Haas, the landscape architect for the Visions project, for a couple of hours on site to review the ongoing project. Mr. Dell’Aversano gave a short summary of the progress on the construction site. He explained that bad weather at the beginning of the year and this summer pushed back the construction schedule, which will not be completed until the spring of 2019. Some landscaping will be installed before the end of this year, including evergreen tree plantings along the east bank and reseeding the grass along Country Club Road. The landscaping should also be completed this year along the three-tiered retaining wall behind the building. Work in the parking lot, including retaining walls around the side of the building, will not be completed until just before the asphalt plants close in November. Consequently it is impossible to plant trees in the parking lot islands and have them survive. The metal fence in front of the building will be taken down, but the construction fencing will remain until the building is completed. In addition, the work at the front of the building will not be done until next spring. Visions expects to move people into the newly reconstructed portion of the old building in late March or early April. Mr. Dell’Aversano concluded that Visions is asking for the landscaping extension because much of the site is not ready for landscaping until next spring.

Ms. Lane noted that Visions is reevaluating the landscaping plan that Mike Haas submitted a couple of years ago. She added that Visions considers bank stabilization, screening and aesthetics very important in the landscaping plan. Mr. Cicciarelli asked if anything had changed from the original plan. Ms. Lane answered that site plans always change during construction, and that is why the Planning Department asks for as-builts. Mr. Dell’Aversano explained that the retaining wall in the back of the property has been modified for engineering reasons. Originally, they dug ten feet down to see if the ground was able to support the wall, and had based the landscaping designs on the original design. Then the contractors dug twenty feet down and discovered that the bank sits on a silt bed at seventeen feet. Consequently, the original landscaping plan will change to account for changes in the design of the wall.

Planning staff recommendation is to approve the extension of the deadline for planting the required landscaping through October 31, 2019. Mike Haas is advising Mr. Dell'Aversano concerning appropriate plants and planting schedules. A revised landscaping plan will be submitted to the Planning Department.

Per the 2016 approval, if any approved site improvements are not complete prior to the request for a Certificate of Occupancy, the Building Official may issue a Temporary Certificate of Occupancy, and the applicant shall provide a performance bond or other form of guarantee approved by the Town Attorney for the cost of site improvements not completed. The bond shall be posted to the Town Board prior to the issuance of the temporary Certificate of Occupancy. The bond shall cover a period of one (1) year.

Chairman Miller called for a motion to extend the landscaping deadline stipulation for the approved site plan for Visions Federal Credit Union at 3301 Country Club Road to October 31, 2019.

Motion Made: T. Crowley
Motion Seconded: L. Cicciarelli
MOTION: Recommendation to extend the Landscaping Deadline stipulation in the Site Plan for Visions Federal Credit Union at 3301 Country Club Road to October 31, 2019.
Favor: L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros
Opposed: None
Abstained: None
Motion Carried

**D. Keeping Chickens Use and Area Variances, 3115 Wayne St., A. Kosiba
1) Advisory Opinion to the Zoning Board of Appeals**

Alicja Kosiba submitted an application for a use variance to keep six chickens at 3115 Wayne Street. The property is located in an Urban Single Family (USF) zoning district, and keeping livestock, including poultry, is not permitted. Keeping livestock is permitted only in Rural Residential zoning districts, and two of the requirements associated with keeping livestock include having a minimum of 3-acres and the storing of manure no closer than 100 feet from any residentially zoned lot line. Ms. Kosiba's 0.17-acre property is 50-feet wide, and she stores manure in an open bin, per her submitted photos, along the shared property line. She has therefore also applied for an area variance for having less than 3-acres required for housing livestock, and a 100-foot area variance to maintain manure at the residentially zoned lot line.

Ms. Kosiba introduced her neighbor, Bonnie Jenkins. The chicken manure bin is next to Ms. Jenkin's fence and Ms. Jenkins can attest that she does not consider Ms. Kosiba's chickens a nuisance. Ms. Kosiba stated that she had checked with her neighbors before she acquired the chickens and they did not have any objections. Her chickens became an issue in May 2018 when she went to Europe for a several weeks and someone complained about her grass. Code Enforcement investigated the length of her grass and they "must have" heard the chickens in back of her house. Ms. Kosiba stated the chickens are her emotional support animals. She works as a social worker in a nursing home with dying residents and she suffers from anxiety and depression. Ms. Kosiba said that coming home to her chickens and feeding them helps her to deal with her depression. The reason she has six chickens is because NY State Agricultural law stipulates that when you buy day-old chicks, you must purchase six at a time. Ms. Kosiba also commented that the Town code requirement of a minimum of three acres for one chicken, and an additional acre per additional chicken, meaning she would need eight acres for six chickens, is an unreasonable requirement.

Ms. Lane explained that the code officer was on Watson Boulevard when he heard Ms. Kosiba's chickens, and someone else from Wayne Street has also made a complaint to the Code office about the noise from the chickens. Ms. Kosiba responded that she purchased day-old chicks because she wanted them to grow up together. Ms. Miller asked how long Ms. Kosiba has had the chickens. Ms. Kosiba responded that she has had the chickens for over a year; she purchased them the previous March in 2017.

Ms. Kosiba said the coop is raised above the ground so the chickens can go underneath, and they have an enclosed run as well. Ms. Lane asked how the chickens fared in the winter. Ms. Kosiba answered that they were fine and they actually prefer to sleep outside on a little roost within the run. They have approximately twelve by five feet of ground area in which to run, with no grass. Ms. Miller asked if there was a particular smell because of the manure pile in her yard. Ms. Kosiba answered that on super humid hot days there is an odor, but on an average day you cannot smell the manure. The only problem that she has had was with a skunk that entered the run the second week that she had the chickens. Ms. Kosiba replaced the wire on the run and since then she has had no problems with other animals.

Ms. Lane stated that she was aware that Ms. Kosiba knew that the Town code did not permit chickens in her residentially zoned district. Ms. Kosiba answered that she didn't see anything specific in the Code that forbids having chickens but she had assumed that they weren't allowed.

Mr. Crowley commented that the Town has noise restrictions about dogs. If a barking dog is a nuisance, the dog warden can cite the owner and eventually the complaint can end up in court. Mr. Crowley felt that there should be similar

noise restrictions for chickens. Ms. Lane commented that Ms. Jenkins lives next door now, but that she may not live there in another five or ten years, and future neighbors may not appreciate the chickens.

Ms. Lane explained a test that applies to HUD housing to determine if an animal can be considered an emotional support animal. The test asks, “Does the person seeking to use or live with the animal, have a disability, i.e. a physical or mental impairment that substantially limits one or more major life activities?” Ms. Kosiba replied that she has depression and anxiety that limits her activities. She has a note from her physician’s assistant documenting that the chickens provide emotional support. Ms. Lane stated that it was recommended that Ms. Kosiba explain to the Zoning Board of Appeals that her impairment limits basic activities and the chickens provide support to enable her to conduct those basic activities. Mr. Schrader, the Town Attorney, was at the meeting to make sure that the Planning Board members are, to the best of their ability, making their recommendation based on their knowledge of the situation. Ms. Lane noted that the Planning Board is only making a recommendation about the chicken use and area variances, and that the final decision rests with the Zoning Board of Appeals.

Planning Department staff recommended that the Planning Board recommend to the ZBA denial of the use variance to keep chickens in an Urban Single Family zoning district. Ms. Kosiba’s reliance on therapy animals can be legally achieved with domestic companion pets, including indoor pet birds. Although current adjacent neighbors may be in support of the chickens, others may be concerned with the increased potential for rodent pests that has been associated with chicken coops.

If the Zoning Board of Appeals grants the use variance, Planning staff recommends a maximum of two chickens. Given the recommendation of 4 square feet per bird, the enclosed coop does not appear to provide enough room for six chickens to have ample space during the winter. In particular, the waste bin should be relocated to the center of the property alongside the garage. In addition, the recommendation, if approved, is that the use would be subject to annual inspections by the Code Enforcement office.

Per Town Law, no use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,

- (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

- (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (4) that the alleged hardship has not been self-created.

Mr. Crowley thought that because Code Enforcement heard Ms. Kosiba's chickens on the next street, there should be something in the recommendation so that the chickens are treated like any other animals in the town regarding noise. Mr. Forster commented that he spoke with a co-worker who owns chickens and his co-worker advised him that four chickens are enough for one family; otherwise they would lay too many eggs. Ms. Kosiba said that the City of Binghamton allows people to have four chickens in their yard. Mr. Forster visited the laundromat behind Ms. Kosiba's property and he did not smell or hear the chickens, but he thinks that six chickens are too many for the size of Ms. Kosiba's yard. Ms. Lane commented that Ms. Kosiba chose to purchase day-old chicks, versus waiting for them to be older so that she didn't need to purchase six. Mr. Crowley said that he has employees who own a pot-bellied pig but this pet stays in the house and is walked on a leash.

Mr. Cicciarelli asked Ms. Kosiba what number of chickens would satisfy Ms. Kosiba's condition if the use variance was granted by the ZBA. Ms. Kosiba answered that she would be fine with two chickens, but there should be a minimum of two chickens because they are herd animals. Mr. Cicciarelli noted that the life expectancy of chickens is seven to eight years so the chickens will be around for quite a while. Ms. McLain commented that her next door neighbors purchased two chicks as a gift for their four-year-old daughter. When they reached maturity, the roosters would crow every night around dinner time and it was not a pleasant noise. Ms. Kosiba commented that oddly enough the City of Binghamton does allow roosters as long as they are not a noise nuisance.

Ms. Miller asked if anyone wanted to make a motion. Mr. Crowley made a motion to recommend denial, but if the ZBA decides to allow the variance there should be some restrictions on noise, as there are for dogs. Mr. Cicciarelli seconded the motion. Mr. Forster stated that he would like to add to the motion that if the ZBA does approve the use variance, that six is too many. Following discussion, the Board agreed that specific recommendations, should the use variance be granted, are already a part of the staff recommendation.

Mr. Schrader asked the Planning Board how they wanted to clarify the motion for the chicken use variance. Ms. Lane answered that, when recommending denial, her reports to the ZBA normally include alternative recommendations should they grant the variance. Mr. Jaros asked whether there are two different motions. Mr. Schrader answered that the motion could be as simple as to recommend the acceptance of the Planning staff recommendations as presented. Mr. Schrader asked whether the Planning Board was making a

determination that either the federal laws do not apply, or whether the Planning Board has considered the federal laws and determined that there is no requirement for a reasonable accommodation. Otherwise, the Planning Board can make the ZBA responsible for making a determination regarding the applicable Federal Housing Laws and ADA Laws. The Planning Board agreed that they are not qualified to make determinations about disabilities.

Mr. Schrader explained typically land use regulations do not depend on personal characteristics of the owner of the property, and once granted, variances run with the land. Someone who moves into Ms. Kosiba's property may not need emotional support chickens; and there is nothing about the property that would justify deviating from the zoning ordinance by allowing chickens to be on that lot. What makes this situation different is that Ms. Kosiba is saying that she is entitled to some benefits that are personal to her. Mr. Schrader noted that at some point that determination has to be made. Mr. Schrader explained that nobody here is against Ms. Kosiba, but the case rests on what is reasonable under the circumstances. The only interest that Mr. Schrader has is whether this Board is taking an action that evaluates and determines the application of the federal law, whether it is the Fair Housing Act or the Americans with Disabilities Act. Mr. Schrader thinks that this Board is saying that they are deferring this decision to the Zoning Board of Appeals.

Mr. Schrader recommended that the motion be couched in terms that the Planning Board accept the recommendations of the Planning Department as modified, subject to the ZBA's determination of applicable federal law. Mr. Crowley said that he does not feel qualified to make this determination and Mr. Ciccirelli added that the determination is beyond the scope of the Planning Board. Ms. Jenkins, Ms. Kosiba's neighbor, asked if there is somebody on the Zoning Board who is qualified to make the determination under the Americans with Disabilities Act. Mr. Schrader answered that the ZBA will consider whatever proof the applicant chooses to present, and that he cannot give Ms. Kosiba legal advice on what evidence to submit to the ZBA since he represents the town. Mr. Schrader added that if any applicant wants a favorable determination from the ZBA, he recommends that they bring the best proof that they can. He noted that if Ms. Kosiba thinks that she has sufficient proof to satisfy the ZBA, and meet the provisions of the law, the ZBA may decide differently than the Planning Board recommendation.

Mr. Forster asked Mr. Schrader if the Planning Board would have to redo the use variance motion. Mr. Schrader said there was a motion to recommend denial and he noted that the Planning Board members are all aware of what Ms. Lane put in her report. Ms. Lane read the motion as follows: "to accept the Planning staff recommendation" and that would include alternative recommendations, were the Zoning Board to grant the use variance. Mr. Schrader recommended including the language "subject to applicable federal law" to the motion.

Chairman Miller next called for a motion recommending that the ZBA accept the Planning staff recommendations, subject to applicable federal law.

Motion Made: T. Crowley
Motion Seconded: L. Cicciarelli
MOTION: Recommend the ZBA accept the Planning staff recommendations, subject to applicable federal law.
VOTE **In Favor:** L. Miller, L. Cicciarelli, S. McLain
T. Crowley, S. Forster, M. Jaros
Opposed: None
Abstained: None
Motion Carried

There was some discussion about how much of an area variance would be needed for the placement of the chicken manure in the center of the lot, and concluded that an 80-foot variance would move the manure into the center of the lot. In addition, a variance of 2.83-acres from the 3.0-acre requirement is needed, contingent on the use variance to have chickens being granted.

Ms. Miller than asked for motions for the following area variances:

- 1) An area variance of 2.83-acres for having chickens contingent on the chicken use variance being granted.
- 2) An area variance for 80-feet for the storage of manure within 100-feet of residentially zoned lot lines, contingent on the chicken use variance being granted.

1. Area variance of 2.83-acres for having chickens contingent on the chicken use variance being granted by the ZBA.

Motion Made: S. Forster
Motion Seconded: S. McLain
MOTION: Recommend the ZBA approve the area variance of 2.83-acres required for housing chickens, contingent on approval of the approval of the chicken use variance by the ZBA at 3115 Wayne Street.
VOTE **In Favor:** L. Miller, S. McLain, T. Crowley,
S. Forster, L. Cicciarelli
Opposed: M. Jaros
Abstained: None
Motion Carried

2. Area variance of 80-feet for the storage of manure in a residentially zoned lot, contingent on the chicken use variance being granted by the ZBA.

Motion Made: L. Cicciarelli
Motion Seconded: S. Forster
MOTION: Recommend the ZBA approve the area variance for 80-feet for the storage of manure in a residentially zoned lot, contingent on the use variance being granted by the ZBA, at 3115 Wayne Street.
VOTE **In Favor:** L. Miller, S. McLain, T. Crowley, S. Forster, L. Cicciarelli
Opposed: M. Jaros
Abstained: None
Motion Carried

Ms. Kosiba asked when she could get a copy of the minutes. Ms. Lane explained that normally the minutes are not distributed until the next Planning Board meeting after they are approved. She will try to forward a copy of her report to Ms. Kosiba before the Zoning Board meeting on September 17, 2018.

E. Amendments to Zoning Chapter, 300-52.1, Sign Regulations and 70.2, Definitions

1) Advisory Opinion to the Town Board

Ms. Lane referred to her sign code memorandum and explained the color code regarding the changes. Ms. Lane added that the Planning recommendations came from both Mr. Nelson and herself.

Ms. Lane read the Purpose of Sign Regulations (Section 300-52.1, D): “Reduce traffic conflicts or hazards by minimizing visual distractions or obstacles in or visible from the public rights-of-way.” Ms. Lane noted some of the proposed changes to the sign code were developed by Code Enforcement to address sign issues that have come up repeatedly.

Under 300-52.2 Requirements, Code Enforcement recommends a new requirement (F) that signs shall not be placed on fences. Ms. Lane explained that this would reduce clutter and she noted the Planning staff is okay with this change. The Planning Board members also agreed with this change.

Under 300-52.3, (G) the word ‘project’ would be omitted and replaced with the word ‘contractor’. Mr. Forster disagreed with this change because on some projects there can be four prime contractors and a dozen or more subcontractors. The suggested change would allow every contractor to have a sign. Mr. Cicciarelli asked if this is Ms. Lane’s interpretation of the change,

and she responded that it appears so. Ms. Lane said that during the construction of Good Shepherd Village, there were numerous contractors at the site and it was determined that all contractor signs at the site had to be on one sign. Ms. Lane explained that the current code permits one sign per construction project. Mr. Cicciarelli thinks the current wording is fine and does not want to change the code from “project” to “contractor,” and the rest of the Planning Board members agreed.

Under 300-52.3 (I) the wording “Flagpoles shall be subject to the height restrictions imposed by each respective zoning district” would be removed. Ms. Lane stated that there is another place in the Code that says flagpole heights are not restricted, just like steeples. Mr. Cicciarelli noted that there are certain regulations that govern how the American flag is displayed. Mr. Forster asked if this change will allow banner flags and Ms. Lane said that this regulation refers to an actual flag on a flagpole. Ms. Lane does not have a problem with the change and Code Enforcement has suggested it because the language conflicts with another part of the code.

Following general conversation about flag content and heights, Mr. Crowley was concerned about the fall zone of a flagpole because a very high flagpole can fall on a neighbor’s property. Mr. Crowley, Mr. Cicciarelli and Mr. Jaros agree the height restrictions on flagpoles should remain. Mr. Jaros noted that the wording as it is now gives some guidance and he feels it best to keep the language in the code. The Planning Board members recommend that the phrasing remain in the code.

Under 300-52.5 (O) Prohibited Signs, the wording “video signs” be replaced with “interactive signs.” Ms. Lane believes that Code Enforcement proposed “interactive” because it is more current.

Under 300-52.5 (P) Prohibited Signs, the category roof signs be added as a new category of prohibited signs.

Mr. Jaros asked if an interactive sign is like the signs on the Vestal Parkway that distract everybody. Ms. Lane responded that those are digital signs. Ms. Lane had researched interactive signs and learned that an interactive sign tries to involve the driver. Mr. Forster recommended that video signs should remain in the prohibited sign code and that interactive signs be added to this part of the code. The rest of the Planning Board members agreed.

Ms. Miller agreed that roof signs be prohibited because they can be blown away during storms. Ms. Forster said that he personally is not against roof signs. Mr. Crowley noted that After Hours Tire has a blown up tire, which is actually a roof sign, and is something that can be blown off a roof during a storm. Everyone except Mr. Forster agreed with the addition of Roof Signs to the Prohibited signs section.

Under 300-52.6 Specific Provisions by Zoning Category - add the sentence “The following regulations apply in addition to those outlined in Section 300-52.7. Where there are inconsistencies between this Section and Section 300.52.7, the regulations of this Section shall control.” before the words ‘See Table of Sign Regulations, for sign allowances.’

The Planning Board agrees with this additional phrasing.

Under 300-52.6 (B) (1) After the second sentence add “If a business is located in a building with two street frontages, a total of two wall signs may be permitted, one each per wall with street frontage.” Ms. Lane said that there have been a number of people who have requested two wall signs when their business faces two separate streets. Taylor Pizza is an example of a business where the Planning Board recommended approval of a variance for a second wall sign. The members of the Planning Board agree with this change.

Under 300-52.6 (B) (2) the entire section would be replaced with the following wording: “Shopping Center. Where groups of three or more contiguous businesses are located together, one sign per use shall be permitted in addition to a single freestanding sign for the entire shopping center. The single freestanding sign shall be no more than 80 square feet if there are four (4) businesses or less. An additional fifteen (15) square feet may be added to the freestanding sign for each business over four (4), up to a maximum of 300 square feet.” The proposed wording will allow 14 additional business signs for a total of 18 business signs. Ms. Lane calculated that a sign for 18 businesses would measure 290 square feet. However, if only 10 additional businesses are allowed, the sign will come to 230 square feet. Mr. Jaros commented the Town Square Mall sign has the Barnes and Noble sign, the cinema sign and all the additional businesses, as an example of this type of sign. He supported the proposed change, and Planning Board members agreed with keeping the suggested change as written.

Under 300-52.6 (C) Off Premises Signs, Planning staff recommend against the addition of Off-Premise signs as permitted signs. The Planning staff does not agree with the DOT recommendation that off-premise signs be permitted within the DOT “Controlled Area” distance from any highway boundary line of NY Route 17/Interstate 86, which is 660 feet from the right of way and is greater than what has been proposed (500-feet) by the Town Board. Ms. Lane explained that off-premise signs are on private property, usually billboards, and are called off-premise signs because they advertise businesses which are not on the property. Ms. Lane recommends that off-premise signs not become permitted signs because there are enough existing billboards and they add clutter. The Planning Board members agreed.

However, Ms. Lane noted that if the Town Board approves off-premise signs, the following stipulations are recommended:

Off-premises signs shall only be permitted within General Commercial and Industrial Zoning Districts within 500 feet of the right of way of NYS Route 17/Interstate 86.

(a) Recommend that the signs be issued only by renewable special permit with a fee as established by the Town Board.

There was some discussion about having a renewable special permit for off-premise signs. Ms. Lane noted that a renewable permit gives the Town some regulatory control over the off-premise signs, especially if any start to deteriorate. It was also suggested that special permits should be renewed annually. All the Planning Board members agreed that off-premise signs, if permitted, should be within 500 feet of the right of way of NYS Route 17/Interstate 86, and also agree with off-premise signs requiring an annual renewable permit.

(b) Recommend that the ordinance should require that the new signs only replace existing signs and not increase the overall number of billboards or square footage of billboards in the town.

Ms. Lane explained that the recommendation not to increase the overall number of billboards means a company would have to take down an existing billboard before they erected a new one. Mr. Crowley said that this restriction will hinder progress. Mr. Forster added that the Town will have no control over what advertisement is put on the billboards and oftentimes it has nothing to do with the Town of Union, only adding clutter to the Town. Mr. Cicciarelli noted that the regulation is only germane to billboards, and we are not restricting business signs, only billboards. Ms. Lane added that currently no new billboards can be installed in the Town of Union. Mr. Crowley dissented with Planning staffs' suggestion regarding the increase of off-premise signs, but the rest of the Planning Board agreed against the increase of billboards, and in particular against digital billboards.

The next proposed stipulation (c) reads as follows: "No more than one off premise sign is permitted on a lot. The size of the off-premise sign shall not exceed 300 square feet in size, 35 feet in height and setback eight (8) feet from any property line."

The DOT restricts billboards to no greater than 40 feet tall, no wider than 60 feet, and the total square footage permitted is 1,200 square feet. Ms. Lane commented that the Code Enforcement's recommendation for 300 square feet compared to the DOT's 1,200 square feet seems reasonable. The Planning Board members agreed with this stipulation.

The next proposed stipulation (d) reads as follows: “No off-premise sign shall be located within 100 feet from another off-premise sign facing the same direction nor, as measured along the street line on which the sign is located within 100 feet of any residential district boundary, nor within 200 feet of the property line of a public or parochial school, library, church, hospital or similar institutional use fronting on the same street.” The Planning Department recommendation is to change the stipulation to a distance of 500 feet from a residential boundary to be consistent with Section 300-52.7.A.5(c)[3]. Mr. Cicciarelli suggested that to be consistent, the stipulation should also eliminate the words “nor within 200 feet of the...” All the Planning Board members agreed with the suggestions.

The next proposed stipulation (e) reads “Digital message signs are permitted as an off premise sign.”

- (i) Maximum size is 225 square feet.
- (ii) The maximum height is 35 feet.
- (iii) The minimum setback shall be eight (8) feet from any property line.
- (iv) The message shall remain for at least eight (8) seconds prior to changing to the next message which it shall do as quickly as possible (e.g. no fade-out or fade in.
- (v) Must conform to the requirements of the New York State Department of Transportation.
- (vi) Must be located at least 1,000 feet from the nearest off premise digital message sign.
- (vii) The illumination from a digital message sign shall be controlled not to be visible from or cast light or shadows onto adjacent properties or cause unwanted glare in accordance with Article 55.

All the Planning Board members, except Mr. Crowley, do not recommend the addition of digital signs as off-premise signs to the Sign Code. Should the Town Board allow off-premise digital signs, Planning staff have several recommendations regarding the requirements for off-premise digital signs including the maximum size should be 162 square feet (9 x 18), a maximum height of 35 feet from ground level, messages should not change more than once per 60 seconds, messages shall consist of a single color, the distance between digital signs should be 1,500 feet, and the illumination of digital signs not exceed 100 nits and documentation needs to be submitted that this standard has been met at initial permit and subsequent renewals.

There was some discussion about the suggested illumination standard for digital signs. Mr. Crowley is concerned that if a sign is right next to the road, 100 nits is really, really bright, but if the sign is set back 15 feet it is a little bit more pleasing to the eye. Mr. Crowley suggested that if the sign is by the road that maybe it can be 50 nits and if it is back 75 feet it can be 75 nits and if it is back further maybe it can be a 100 nits. Mr. Forster suggested that the wording “not to exceed 100 nits but appear no brighter than 40 nits” be added to the

stipulation. Ms. McLain commented that if you are driving at night and are blasted by a really bright sign, it takes time for your eyes to adjust to be able to see in the darkness. Mr. Crowley added that if someone has cataracts, they can be blinded by bright signs. Ms. Lane stated that the DOT regulates the brightness of illuminated signs and that regulation is no more than 280 candelas per square meter at night and 5,000 candelas during the day, so ultimately the DOT will be regulating this standard.

Under Section 300-52.7 (5) (c) [1] – Construction and Design Standards

The following wording is proposed “except that restrictions on digital signs shall not apply to Fire Districts or Fire Companies, regardless of the applicable zoning district.” Under Section 300-52.7(5)(c)[2], it’s proposed to delete the wording “The message shall change no more than once per day and shall consist of a single color.” The proposed rewritten requirement is as follows:

Message Display

- a. The message shall change no more than once per day and consist of two colors.
- b. No digital message sign may contain text, which flashes, pulsates, moves, or scrolls. Each complete message must fit on one screen.
- c. The content of the sign must transition by changing instantly (e.g. not fade-out or fade in.)
- d. The sign shall contain a default design, which shall freeze the sign message in one position if a malfunction should occur.

The Planning Board members discussed the regulation allowing the Fire Companies and Fire Districts to be exempt from the restrictions on digital signs. All the Planning Board members are against this change.

Ms. Lane explained that changes to the digital message display code clarify how digital messages are regulated. Per Code Enforcement, permitting two colors includes only the background color and the text color. All the Planning Board members supported these changes.

Under Section 300-52.7, the proposal is to add (d) Digital message centers for Governmental uses including Fire Districts and Fire Companies. Planning staff recommend against this proposal and the all the Planning Board members agreed.

If the Town Board approves the change to permit digital message centers for Governmental uses and Fire Districts and Companies, the following stipulations have been proposed:

- (1) Signs are permitted in any zoning district on property owned by the entity. - Planning Board members were against this.

- (2) Signs are permitted to be monument type signs. - Planning staff recommend that if approved, digital signs are only permitted as monument signs.
- (3) Maximum height is (10) feet. - Planning staff recommend that if approved, a maximum height of 8 feet.
- (4) Maximum size is 40 square feet in area.
- (5) Emergency messages such as weather/amber/emergency alerts can change every 10 seconds. Signs cannot flash.
- (6) Non-emergency messages cannot change more than once a day and consist of 2 colors.

There was some discussion regarding the height of the signs. Mr. Forster recommended that the maximum sign height be 6 feet. However, Ms. Lane said that 8 feet fits better with our sign code. Ms. Miller noted that 8 feet is better than 10 feet. All the Planning Board members are against Digital message centers for Governmental uses, Fire Districts and Fire Companies being allowed in all zoning districts. If the signs are approved, all of the Planning Board members except Mr. Forster recommend a height restriction of eight feet.

Under Section 300-52.8 (A) [3] – Nonconforming Signs

The proposed addition “Replacement of an existing sign face or faces for a new business or advertiser or change in existing business or advertiser logo without altering the sign structure is permitted and will not result in a loss of nonconforming status” is suggested because applicants frequently submit sign permits to the Code department to change the sign faces of grandfathered nonconforming signs. Ms. Lane explained that this change will allow businesses to change the face of an existing sign without the sign losing its legal nonconforming status. Ms. Lane clarified that this change only applies to the sign face, not the actual frame around the sign. Mr. Ciccirelli agrees that the Planning Board does not want to create another hardship for new business owners and agrees that this change is needed because the Planning Board deals with this issue frequently. Mr. Forster suggested deleting the words “or advertiser” under the new regulation and the other Planning Board members agreed with this change. This suggestion is in support of not permitting off-premise signs.

Under Table 52-1 the following changes were recommended:

1. Allow internal lighting in Neighborhood Commercial (NC) zoning districts for monument signs, wall signs and awning and canopy signs.
2. Under Commercial Office (CO) change Maximum Number permitted from one per structure to one per use.

Mr. Forster noted that the first change about internal lighting needs to also address the brightness of the these signs because illuminated signs can be

very distracting at night to the neighbors and the local residents. The Planning staff recommends approval of these changes to Table 52-1.

Under Section 300-70.2 the proposed addition of the two new definitions:

1. (P). Animated Sign

Any sign which is designated and constructed to give its message through movement of change of lighting including but not limited to blinking or flashing lights or a sequence of progressive changes of parts or lights or degrees of lighting, excluding time and temperature signs.

2. (Q) Roof Sign

A structure or device fastened or attached to the roof of a building and used as a sign.

Mr. Forster commented that the video signs should remain prohibited in the code and that the definition for interactive signs be added to the code. All the Planning Board members agreed.

There was some discussion about the roof signs. Mr. Forster stated that roof signs should be permitted, however, other Planning Board members agree that any structures on a roof could cause damage to neighboring properties. All the Planning Board members except Mr. Forster agree with the addition of Roof Signs to Prohibited Signs.

F. Other Such Matters as May Properly Come Before the Board

There were no other matters to be discussed.

G. Adjournment

Chairman Miller asked for a motion to adjourn the meeting at 9:36 PM

Motion Made:	M. Jaros
Motion Seconded:	L. Cicciarelli
MOTION:	Adjourning the meeting.
VOTE:	In Favor: L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros
	Opposed: None
	Abstained: None
	Motion Carried

Next Meeting Date

The next meeting of the Planning Board is tentatively scheduled for Tuesday, October 9, 2018, at 7:00 PM

Respectfully Submitted,
Carol Krawczyk