

**Town of Union Planning Board Minutes**  
Tuesday, August 11, 2020

A regular meeting of the Town of Union Planning Board was held Tuesday, August 11, 2020, remotely via Zoom Virtual Meeting Software.

Members present: L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster,  
M. Jaros, S. Yalamanchili (Alternate)

Members absent: D. Kudgus

Others present: Marina Lane, Sara Zubalsky-Peer, Rick Materese, Alan Pope,  
Kurt Ricker, Mike Malarkey, Dave Adams, Kelly Thompson,  
Justin Mirando, Dan Brocht, Corey Auerbach, Sarah Campbell,  
Bill Walsh, Dan Griffiths, Alex Urda, Dave Jones, Finkelman

**A. CALL TO ORDER**

Chairman Miller opened the meeting of the Planning Board at 7:09 p.m. and read the proclamation, “This Planning Board meeting is being held in compliance with Executive Order 202.1 issued by Governor Andrew M. Cuomo on March 12, 2020. The Executive Order suspends Article 7 of the Public Officers Law to the extent necessary to permit any public body to meet and take any action authorized by law without permitting in public, in-person access to meetings, and authorizing such meetings to be held remotely by conference call and via Zoom virtual meeting software. This meeting is being held remotely by conference call and remotely via Zoom virtual meeting software. The public has the ability to view or listen to this meeting live via the Zoom app, web browser, and/or by telephone. This meeting is being recorded and will be transcribed at a later date.”

**B. MEETING MINUTES**

1. **Acceptance of July 14, 2020 Meeting Minutes: POSTPONED**

2. **Acceptance of Acceptance of Public Hearing Transcripts:**

**1606 Union Center–Maine Highway: Floodplain Development, Auto Sales and Auto Repairs Special Use Permits**

A. Chairman Miller asked for a motion to accept the July 14, 2020, Public Hearing Transcript for the Special Permit for Development in the Floodplain, as written.

Motion Made: S. Forster

Motion Seconded: M. Jaros

MOTION: Acceptance of the July 14, 2020, Public Hearing Transcript for Development in the Floodplain, as written.

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

**Opposed:** None  
**Abstained:** None  
Motion Carried

**B.** Chairman Miller asked for a motion to accept the July 14, 2020, Public Hearing Transcript for the Special Permit for Auto Repairs, as written.

Motion Made: S. Forster  
Motion Seconded: M. Jaros  
MOTION: Acceptance of the July 14, 2020, Public Hearing Transcript for Auto Repairs, as written.  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros  
**Opposed:** None  
**Abstained:** None  
Motion Carried

**C.** Chairman Miller asked for a motion to accept the July 14, 2020, Public Hearing Transcript for the Special Permit for Auto Sales, as written.

Motion Made: S. Forster  
Motion Seconded: M. Jaros  
MOTION: Acceptance of the July 14, 2020, Public Hearing Transcript for Auto Sales, as written.  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros  
Opposed: None  
Abstained: None  
Motion Carried

**D. 1500 County Airport Road: Special Permit for Outdoor Entertainment**  
Chairman Miller asked for a motion to accept the July 14, 2020, Public Hearing Transcript for the Special Permit for Outdoor Entertainment, as written.

Motion Made: S. Forster  
Motion Seconded: S. McLain  
MOTION: Acceptance of the July 14, 2020, Public Hearing Transcript for Outdoor Entertainment, as written.  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros  
**Opposed:** None  
**Abstained:** None  
Motion Carried

**E. Fairmont Park Water Infrastructure Improvements: Floodplain Development Special Use Permit**

Chairman Miller asked for a motion to accept the July 14, 2020, Public Hearing Transcript for the Special Permit for Development in the Floodplain, as written.

Motion Made: S. McLain  
Motion Seconded: L. Cicciarelli  
MOTION: Acceptance of the July 14, 2020, Public Hearing Transcript for Development in the Floodplain, as written.  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros  
**Opposed:** None  
**Abstained:** None  
Motion Carried

**C. Special Permit for Floodplain Development, 1420 Union Center-Maine Highway, K. Ricker**

**1. SEQRA Determination**

Kurt Ricker applied to erect a split-rail fence 25-feet back from the road along the western perimeter of 1420 Union Center-Maine Highway. Ms. Lane reviewed Part 2 of the EAF that addresses potential environmental impacts, and all environmental impacts were small to none. Per the Determination of Significance, the 14.2-acre property is vacant, and is in the 100-year floodplain. Any development in the floodplain requires a special permit from the Planning Board. The fence is intended to deter trespassers.

The proposed fence fits with the surrounding residential uses, and will not alter the character of the community or use of the land.

The proposed use will not create adverse changes to traffic, parking, or utilities (no septic or well are required), nor historical, architectural or aesthetic resources. The ground is stabilized and flat, and the proposed fence will not have significant negative impacts on the ground, flora, fauna, endangered or threatened species, water or the air.

The proposal would not create a hazard to human health. The identified DEC remediation site, the Endicott Area-Wide Investigation, does not affect this site.

The split rail fence has been identified as a flood-friendly type of fence that will allow floodwaters to flow freely, and can be easily dismantled if needed. The fence would not increase the potential for flooding or erosion.

Upon review of all the information submitted, the proposed split rail fence will not have a significant adverse impact on the environment.

The review of the project in my opinion found no significant negative impacts on the environment.

Chairman Miller then asked for a motion to approve the Negative Declaration under SEQRA.

Motion Made: L. Cicciarelli  
Motion Seconded: M. Jaros  
MOTION: Approval of the Negative Declaration under SEQRA  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros  
**Opposed:** None  
**Abstained:** None  
Motion Carried

## **2. Public Hearing for Floodplain Development: Decision at Planning Board's Discretion**

Chairman Miller opened the Public Hearing for Floodplain Development at 7:15 p.m. and closed at 7:16 p.m. There were no comments or questions from the public during the hearing.

Mr. Ricker thanked the Planning Board for their time on his project. He explained that he was erecting the split-rail fence to deter trespassers who wish to visit a popular fishing hole at the back of his property. He is concerned that he would then have an insurance issue if someone falls on his property.

Ms. Lane then read her staff report. Kurt Ricker submitted an application to install a split rail fence along the western edge of the property, at 1420 Union Center-Maine Highway. The site lies in the 100-year floodplain and development in the floodplain requires a Special Permit. The 14.2-acre property is zoned Suburban Single Family and the property is vacant.

The floodplain in this area extends along Nanticoke Creek, and flooded last in the 2011 flood. The split rail fence will not raise base flood elevation. This type of fence is considered flood-friendly in that floodwaters can flow freely through the fence, which can also be easily dismantled if necessary due to objects trapped during a flood event.

Mr. Ricker does not plan to add any fill on the property, and has no plans at this time to construct any building on the property.

The Planning Board made a Negative Declaration under the New York State Quality Review Act (SEQRA) prior to the public hearing on August 11, 2020. The NYS DOT requires that nothing may be placed within the State right-of-way. The applicant has already contacted the NYS Broome Residency at 607-775-0522 in order to locate the highway boundary.

The Planning Department recommends approval of the Special Permit to install a split rail fence in the 100-year floodplain with the following stipulations:

1. The fence shall not be located in the NYS Right-of-Way.
2. No fill shall be placed on 1420 Union Center-Maine Highway.
3. No debris/material shall be stockpiled on 1420 Union Center-Maine Highway.

Chairman Miller asked for a motion to approve the Special Permit for Floodplain Development at 1420 Union Center-Maine Highway, with stipulations.

Motion Made: S. Forster  
Motion Seconded: L. Cicciarelli  
MOTION: Approval of the Special Permit for Floodplain Development at 1420 Union Center-Maine Highway, with stipulations.  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros  
**Opposed:** None  
**Abstained:** None  
Motion Carried

**D. Leisure Village Subdivision, 1908 Newell Road, M. Malarkey / M&S Real Estate Development LLC**

**1. SEQRA Determination**

Mike Malarkey, of M&S Real Estate Development, petitioned to construct a subdivision of 28 semi-attached single-story homes. Ms. Lane noted that there had been small changes to Part 1 of the EAF. Question 3 reflected total acreage of the site as 5.126 acres and the total acreage to be physically disturbed as 4.9 acres. The new zoning designation of Urban Single Family was also changed in Part 1 of the EAF.

Ms. Lane reviewed Part 2 of the EAF that addresses potential environmental impacts, and all environmental impacts were small to none. Ms. Lane then read the Determination of Significance. Although the Comprehensive Plan proposed government, education or institutional uses, the proposed residential use fits well with the adjacent mixture of residential uses. This property was rezoned in 2020 to Urban Single-Family, and is surrounded on three sides by Urban and Suburban Single-Family zoning districts.

The proposed residential use will not alter the character of the community, or create adverse changes to traffic, parking, or utilities (the site is served by public water and sanitary and storm sewers). It will not impact historical, architectural or aesthetic resources. The proposed residential construction will have small temporary impacts on the ground and plants, which will be restored upon completion of the residential development. There will be no

significant impacts to flora, fauna, endangered or threatened species, water or the air.

The residential use will not increase the potential for flooding or erosion. Any waterbodies or wetlands in the vicinity will not be impacted by the proposed development. A stormwater management SWPPP will be implemented.

The proposal would not create a hazard to human health. The identified DEC remediation site, the Endicott Area-Wide Investigation, does not affect this site.

As the site is a potential archeologically sensitive site per the NYS DEC, the project was reviewed by the NY State Office of Parks, Recreation and Historic Preservation. A Determination of No Findings of Significance was issued.

Upon review of the information submitted, the proposed subdivision of twenty-eight semi-attached single-family homes will not have a significant adverse impact on the environment.

Chairman Miller then asked for a motion to approve the Negative Declaration under SEQRA.

Motion Made: S. Forster  
Motion Seconded: L Ciccirelli  
MOTION: Approval of the Negative Declaration under SEQRA  
VOTE: In Favor: L. Miller, L. Ciccirelli, S. McLain, T. Crowley, S. Forster, M. Jaros  
**Opposed:** None  
**Abstained:** None  
Motion Carried

## 2. Public Hearing for Subdivision, Vote on Approval of Preliminary Subdivision

Chairman Miller opened the Public Hearing for Outdoor Entertainment at 7:29 p.m.

Ms. Lane noted that she had received an email from Marietta Salamida, a resident who lives at 1408 Newell Drive, which is the property adjacent to the proposed subdivision. Ms. Salamida is concerned that water from the subdivision will drain onto her property. Ms. Salamida owns a private road that has access to the cemetery and she does not want the construction workers to use the private road during construction. Mr. Malarkey, the developer for the subdivision, assured the Planning Board members that he would instruct his workers not to use Ms. Salamida's private road. Mr. Malarkey added that the stormwater management system has extensive bioretention, infiltration and detention ponds that hold runoff water and direct the water to underground storm facilities to prevent drainage onto the subdivision and neighboring properties. Mr. Materese asked Mr. Malarkey if

something were to affect Ms. Salamida's property during construction, would he make the necessary corrections to ensure that her property is not affected. Mr. Malarkey answered that he would, and he is taking precautions to prevent this.

The Public Hearing was closed at 7:42 p.m.

Ms. Lane then read her staff report for the Planning Board. On behalf of M & S Real Estate Development, LLC, Mike Malarkey applied to develop a 30-lot subdivision at 1908 Newell Road (#141.11-4-50) with 28 semi-attached, single-story homes. The property was rezoned to Urban Single-Family (USF) in February 2020, and single-family attached homes are permitted by right. The intention is to deed a new center street to the Town, and form a neighborhood association for the maintenance of the properties and stormwater control facilities. The 5.126-acre parcel is surrounded by Urban Single-Family, Suburban Single-Family and Neighborhood Commercial zoning to the north, east and west. There is an existing cemetery to the south, which will have easements with eleven of the properties in order to maintain an access road along their southern edge.

The developer will extend utilities between Newell Road and Taft Avenue for the homes along the new road, and will extend water and sanitary sewer laterals from Newell Road to the eight homes proposed along Newell Road.

Most of the stormwater drainage will be directed westward via a series of swales, into a system of bioretention, infiltration, and detention ponds, to the closed storm sewer system in Newell Road.

The intent of the Subdivision regulations is to allow the subdivision of land in an orderly, planned, efficient, and economical manner that conforms to goals and objectives spelled out in the Town's Future Land Use and Transportation Plan. (Ms. Lane did not read the regulations because these had already been sent out to the Planning Board members.)

The number of homes proposed is twenty-eight (28), which is well below the Type 1 threshold of 200 (for a city, town, or village having a population less than 150,000) if the units are connected to both public water and sewer. Accordingly, the Planning Board has classified the project as an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA). The Planning Board has approved the Negative Declaration under SEQRA, based on the information submitted for the preliminary subdivision plans for Leisure Village Subdivision.

Although the entire subdivision property is located within an archeologically sensitive area as indicated on the NYS Office of Parks, Recreation and Historic Preservation (OPRHP) website, a Phase 1 Cultural Resources Survey is not required. The OPRHP issued a Determination of No Findings of Significance on August 7, 2020.

Earlier this year, the Town Board recognized that the church no longer needed nor wanted the property, and by petition from the developer, the Town Board rezoned the 5.126-acre property to Urban Single-Family, similar to zoning districts in the surrounding area. The proposed lots with homes are larger than the required minimum 4,000 square-feet, ranging between 4,138 and 10,294 square-feet. The area of the uninhabited lots with stormwater facilities is 15,649 and 19,232 square-feet, or a total of 0.8-acre.

This property is subject to a 239-Review because Taft Avenue is a County road. Comments received from the following agencies are as follows:

- Broome County Planning has not identified any significant countywide or intermunicipal impacts.
- Broome County Engineering, Dept. of Public Works, requires the applicant apply for a permit from the Highway Department for the proposed driveway opening at Taft Avenue (County Road 29). The construction of any new driveway shall be compliant with NYS DOT Highway Design Standards. It appears that there is an existing catch basin located in the area of the proposed driveway. The developer will need to coordinate with Broome County Highway Department for work related to the closed drainage system on Taft Avenue. The developer will be responsible for any required upgrades or relocations of the existing systems as a result of this development. Additionally, the developer will be responsible for the repair of Taft Avenue to the satisfaction of the Broome County Superintendent of Highways as a result of any utility work necessary to the project.
- BMTS, when questioned about such a development in February 2018, stated that such a development would generate only about 20-25 trips in the morning and afternoon peak hours, and should not be a problem. Per BMTS, the BC Transit bus stop on Newell Road near the intersection with Taft Avenue is not ADA compliant. BMTS recommends the Town consider requiring the developer bring the bus stop into ADA compliance, and connect it to the shoulder of Taft Avenue via an ADA compliant sidewalk and curb ramps. BMTS also suggested the Town consider requiring sidewalks along the new road.
- Jeff Cheney, Water Distribution Foreman for the Village of Endicott, is reviewing the proposed water service for the 30-lot subdivision, including location of fire hydrants.
- Department of Public Works, Lou Caforio, Commissioner of Public Works for the Town of Union, is currently reviewing the placement of Town utilities:
  1. Stormwater utilities must be relocated into the right-of-way along Newell Road. The Town has a preferred policy of not locating public utilities under private driveways.

*a. 181-24.4 Utilities in street. All utilities within the subdivision shall*

*be placed underground. The Planning Board may require that underground utilities be placed in the street right-of-way between the paved roadway and street line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the right-of-way line of each lot within the subdivision for such required utilities before the street is completed.*

2. The Town is going to require the full restoration of Newell Road from the center of the road, beginning at the new road to Taft Ave, due to all the pavement cuts for utilities.

3. The proposed stormwater plan is pending further review.

The applicant meets all the requirements for a preliminary subdivision plan under Section 181-11 and 181-12 of the Town Subdivision Regulations.

§ 181-13.E.(8) states: Notwithstanding any notes, provisions or specifications in the plans, we agree on behalf of the Developer-Applicant that Town of Union Code specifications shall take precedence over any such notes, provisions or specifications which may be inconsistent with and/or not in conformance with the Town of Union Code specifications. We further agree that in the event of any inconsistency or ambiguity between the notes, provisions or specifications on the final plans and the Town of Union Code, that in all cases the Town of Union Code specifications shall be controlling with respect to the work, materials or other requirements.

Ms. Lane explained that Town of Union Code requirements always take precedence to protect the Town from developer specifications in the plans that may not be as stringent as the Town's requirements.

Chairman Miller asked for a motion to approve the Preliminary Subdivision at 1908 Newell Road.

Motion Made: T. Crowley  
Motion Seconded: S. McLain  
MOTION: Approval of the Special Permit for Preliminary Subdivision at 1908 Newell Road.  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley S. Forster, M. Jaros  
**Opposed:** None  
**Abstained:** None  
Motion Carried

## **E. Dunkin', 712, 720 and 724 Main Street, K. Thompson and D. Adams**

### **1. Declare Lead Agency**

Chairman Miller then asked for a motion to Declare Lead Agency.

Motion Made: L. Cicciarelli  
Motion Seconded: M. Jaros  
MOTION: Declare Lead Agency  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain,  
T. Crowley, S. Forster, M. Jaros  
**Opposed:** None  
**Abstained:** None  
Motion Carried

## 2. Classify Project as an Unlisted Action

Chairman Miller then asked for a motion to Classify the Project as an Unlisted Action.

Motion Made: T. Crowley  
Motion Seconded: L. Cicciarelli  
MOTION: Classify Project as an Unlisted Action  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain,  
T. Crowley, S. Forster, M. Jaros  
**Opposed:** None  
**Abstained:** None  
Motion Carried

## 3. SEQRA Determination

A proposal has been submitted to construct an 1,840 square-foot fast food, drive-through Dunkin' restaurant at 712, 720 & 724 Main Street, Johnson City. Ms. Lane introduced Kelly Thompson, who was brought into the project by Dave Adams of AJH Designs to do the Traffic Impact Study for the Dunkin' project. Ms. Lane noted that both Ms. Thompson and Mr. Adams did an amazing job of pulling the details of the project together. The Department of Transportation was very pleased with Ms. Thompson's Traffic Impact Study.

Ms. Lane reviewed Part 2 of the EAF that addresses potential environmental impacts, and all environmental impacts were small to none. Per the Determination of Significance, the 1.31-acre property is zoned General Commercial and the fast food restaurant is permitted by right. The site is currently a parking lot, and formerly had a McDonald's restaurant on site.

The proposed action will not have any significant effects on existing air quality, noise levels, solid waste production or disposal. A lighting plan with parking lot lights raised 16-feet shows no spillage onto adjacent properties.

A traffic impact study was approved by the NYS DOT and BMTS, so that anticipated traffic patterns will not cause a significant adverse impact to Main Street or Oakdale Road. The number of parking spaces is greater than required, and the site plan has two stacking lanes to better meet the need during busy hours. The project requires a SWPPP to address stormwater,

although the final impervious area will be less than existing. The property is in the 500-year floodplain, and the development of the 1,840 square-foot building will not raise base flood elevation.

The proposed action will not result in adverse impacts to aesthetic, agricultural, historic or other natural or cultural resources or community or neighborhood character.

There will not be any impacts to Critical Environmental Areas, or endangered or threatened vegetation or animals; nor hazards to environmental resources or human health. The referenced remediation sites are still under remediation, but do not impact this site.

The proposed action will not result in any adverse effects on the community's existing plans or goals, or change in use or intensity of use of land. The proposed project will not adversely impact the use of energy, nor have adverse impacts on subsequent development.

After review, it was determined that the proposed Dunkin' fast food restaurant will not have any significant adverse impacts on the environment.

Chairman Miller then asked for a motion to approve the Negative Declaration under SEQRA.

Motion Made: S. Forster  
Motion Seconded: L. Cicciarelli  
MOTION: Approval of the Negative Declaration under SEQRA  
VOTE: In Favor: L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros  
**Opposed:** None  
**Abstained:** None  
Motion Carried

### 3. Site Plan Review

Ms. Thompson gave a short presentation on the traffic flow onto the property. They had been asked to evaluate a second entry drive into the parking lot. With the new driveway, patrons would enter further to the west and that would allow people to enter before they hit the traffic light at Oakdale. This entryway would not conflict with westbound traffic turning left into the site. So there are now two entry driveways off Main Street, but one is associated more with eastbound traffic and the other with westbound traffic. They also introduced an exit driveway onto Camden Street to facilitate the traffic flows. The signals at Oakdale and Camden run off one controller and it separates the flows so that even with additional traffic generated by this site, the current levels of service and safety would still be maintained. The NYS DOT accepted the new traffic plan and considered it an improvement over the original traffic plan.

Mr. Cicciarelli asked Ms. Thompson if the traffic signals at Oakdale Road and Camden Street will be synchronized. Ms. Thompson answered that they already are synchronized. She explained how the two-lane drive-through lanes work. The lane closest to the building is an order and pay lane. The second lane is for people to wait who have longer orders to allow the traffic flow in the lane closest to the building to be unhindered.

Mr. Cicciarelli asked Mr. Adams if the stacking lanes would be delineated by curbs. Mr. Adams answered there are only painted lines. Mr. Adams also explained that intent of the outside drive-through lane is what Dunkin' calls the on-the-go-lane. Mr. Adams noted that Dunkin' may be phasing out the on-the-go-lane, but they will still keep both lanes at the site. The concept of the on-the-go-lane is that you call ahead for your order, and then you let them know when you arrive. When you pull to the head of the line at the outside lane, it triggers a device in the pavement that identifies that you are the next customer. Mr. Cicciarelli asked if there was curb on the outside lane. Mr. Adams answered there is no curb for the outside lane dividing it from the rest of the traffic at the site. He said that a curb could be taken out by a snowplow. Ms. Lane added that there is an overhead sign by the lanes to help guide the drivers into the two different lanes, in addition to the markings on the pavement.

Ms. Lane read her report for the Planning Board. The parking requirement for a drive-through restaurant is one space per employee, plus four per 1,000 square-feet. Dunkin' plans to have 15 employees, and with a 1,840 square-foot footprint, 23 parking spaces are required. A total of 36 parking spaces are shown on the site plan, including two handicapped accessible spaces. Town Code requires a minimum of six stacking spaces, and the site has 10 stacking spaces for typical order and pick-up. A secondary stacking lane is provided for additional stacking. A right-in only access driveway is proposed from Main Street eastbound into the site. The proposed hours of operation are Monday to Friday 5:00 a.m. to 10:00 p.m., Saturday 5:00 a.m. to 10:00 p.m. and Sunday 6:00 a.m. to 10:00 p.m.

The lighting plan meets Town requirements for no light trespass onto adjacent parcels. A landscaping plan has been submitted, and offers significant landscaping as a buffer for adjacent residential uses, in addition to a proposed six-foot high wooden fence. Landscaping along the western perimeter provides a natural delineation from the adjacent YMCA to the west. The dumpster is enclosed and has attractive landscaping for additional aesthetic appeal for this highly visible location. Signage is located greater than the eight-foot setback requirement.

This location was subject to a 239-Review as it is on State Route 17C. The Broome County Planning Department did not identify any countywide impacts, but recommended the applicant should be made aware that the project site is located almost entirely within the preliminary FEMA special flood hazard area.

Additional comments pertained to the site plan, and have been addressed per Town requirements.

NYS DOT approved the Traffic Impact Study and resulting reconfiguration of the intersections at Main Street, Oakdale Road, Camden Street and the proposed site entrances and exits. This project will require the applicant to obtain a Highway Work Permit prior to the commencement of any work within the State right-of-way. The applicant is required to construct pedestrian connections between the buildings and the sidewalk along NYS Route 17C, and sidewalks shall conform to the Americans with Disabilities Act Accessibility Guidelines. Finally, nothing may be placed in the State right-of-way, including signage or parking. BMTS stated that they are satisfied with the results of the Traffic Impact Study. Recommendations made during the review of the Traffic Impact Study were incorporated into the final design. Broome County Engineering commended the design of the site which significantly decreases impervious surface. Contact Matt Lane at the Health Department for food service permitting requirements at (607) 778-2814.

The Planning Department recommends approval of the site plan with the NYS DOT and Broome County Health Department requirements, and the following stipulations:

1. The parcels shall be combined into 724 Main Street during purchase.
2. The contractor shall utilize erosion control and stormwater runoff prevention measures during construction, per the approved SWPPP. No excavation or building permit shall be issued until the final SWPPP has been approved by the Consulting Engineer.
3. If necessary, the contractor shall apply for highway work permits from the Town of Union Highway Department prior to any work in the Camden Street right-of-way, including any restoration of sidewalks and curbs. Curbs, sidewalk, and all other infrastructure facilities to be restored must be installed and noted deficiencies corrected in accordance with Town Standards and the Planning Board plan by October 15 of the year in which street acceptance is requested. (*Section 181-19B[2]*)
4. The water service requires a backflow prevention device prior to the issuance of a Certificate of Occupancy. The device will be required to be installed and tested by a certified backflow device tester. The NY State Health Department forms for the application of the installation of backflow devices can be obtained from the Village of Johnson City Water Department (607-797-2523). The backflow prevention device shall be tested prior to the issuance of a Certificate of Occupancy, and annually thereafter and a report submitted to the Village of Johnson City Water Department.
5. The parking lot shall be striped according to Town Code Chapter 300, Article 51, Off-Street Parking, Loading and Stacking Regulations. The

required handicapped-accessible parking spaces shall conform to the Property Maintenance Code of NYS, and shall be posted with signage displaying the international symbol of accessibility. The handicap parking access spaces shall be no less than eight-feet by eighteen-feet (8'x18'). All paving and striping shall be complete prior to the issuance of a Certificate of Occupancy.

6. Per Section 300-51.7 F. 13(e), one additional stacking space shall be added to the site plan in the lane which is served by the order box (*Restaurants: six spaces, measured from the order box*).
7. The landscaping plan shall be installed by October 30, 2021. An extension of this deadline may be approved by the Planning Board.
8. The landscaping shall be maintained according to the landscaping plan, and any dead or dying plants shall be replaced with similar plants within one month, weather permitting. Failure to maintain such landscaping or to replace dead or diseased landscaping required by this chapter shall constitute a violation of these regulations 300-54.2.
9. For any new signage, the applicant shall first apply for a sign permit from the Building Official prior to display. All temporary signs (including price signs), portable signs, or balloons shall be reviewed and approved by the Code Enforcement Office prior to being placed on the property. Signs that blink, rotate, or move are not permitted.
10. Per 300-55.4, General Requirements,
  - A. All outdoor lighting fixtures shall be shielded or otherwise contained on the property from which it originates (known as "light trespass limitations").
  - B. To minimize the indiscriminate use of illumination, lighting, except as required for security, shall be extinguished during non-operating hours. Where practicable, lighting installations are encouraged to include timers, sensors, and dimmers to reduce energy consumption and unnecessary lighting.
11. Any new exterior lighting not shown on the lighting plan shall first be approved by the Code Enforcement Officer.
12. Per 300-54.15, the fence shall have its finished or decorative side facing the adjacent properties. The fence posts and other supporting structures of the fence shall face the interior of the area to be fenced. Solid fences shall maintain an eight-foot setback from any street property line. Every fence shall be maintained in a safe, sound and upright condition.
13. Per NYS law, the Village of Johnson City Fire Marshall must inspect all restaurants every year. It is the applicant's responsibility to coordinate that inspection by calling the Fire Marshall at (607) 729-0428, and every year after the issuance of the Certificate of Occupancy.
14. A Certificate of Occupancy shall be required before occupancy of the new building.

15. Site plan approval shall be valid for one year, unless substantial improvements have been made pursuant to the approved site plan and a valid building permit.
16. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of an excavation or building permit. The applicant agrees to construct the project in strict accordance with the site plan approved by the Planning Board. Changes to the site plan following approval may require a minor site plan review or resubmittal to the Planning Board, depending on the degree of change per Section 300-63.2. Applicability.

Mr. Crowley asked Ms. Thompson to confirm that the exit lane to Oakdale Road can go either left, straight or right. Ms. Thompson answered that Mr. Crowley was correct. Ms. Thompson then explained the split-phase signal there will allow the movement to be monitored opposite from Main Street and will allow fewer conflict opportunities to happen.

Chairman Miller asked for a motion to approve the Site Plan for Dunkin' at 712, 720 and 724 Main Street, with stipulations.

Motion Made: L. Ciccirelli  
Motion Seconded: T. Crowley  
MOTION: Approval of the Site Plan for Dunkin' at 712, 720 and 724 Main Street, with stipulations.  
VOTE: **In Favor:** L. Miller, L. Ciccirelli, S. McLain, T. Crowley, S. Forster, M. Jaros  
**Opposed:** None  
**Abstained:** None  
Motion Carried

## **F. Hooper Road Apartments, 609 Hooper Road, J. Mirando / CDS Housing**

### **1. Site Plan Review**

Justin Mirando, on behalf of CDS Housing Inc., submitted an application for the construction of a new four-story, apartment building at 609 Hooper Road. Ms. Lane introduced Mr. Mirando, Dan Brocht from LaBella, the engineer on the project, and Corey Auerbach from Barclay Damon. Ms. Lane noted that the Planning Board had done the Negative Declaration in January and then the ZBA approved the height variance in February.

Ms. Lane read her staff report for the Planning Board. The property is zoned Neighborhood Commercial with a Hooper Road Overlay district, and the multi-family residential use is permitted. The apartment building will have a residential look, and according to the regulations of the Hooper Road Overlay District, parking is not located between the building and the street. Following

a public hearing, the Zoning Board of Appeals granted a height variance of 23-feet on February 3, 2020.

The footprint of the building is approximately 25,310 square-feet, with total gross square-footage of 108,465 square-feet. The proposed apartment building has 102 rental units, geared primarily towards seniors and a small percentage for the disabled. Parking for senior housing is 1.3 per unit; therefore, this project requires 133 parking spaces. The Town prefers that developers construct only the necessary number of parking spaces in an effort to minimize impervious surfaces, and the Planning Board has the right to waive 25% of required parking, as long as the applicant shows they can provide the required spaces. The developer has submitted two parking plans, one providing 75% of the required parking (100 spaces) and one showing full parking lot build-out, which Code Enforcement can require be constructed if they see a consistent issue with lack of parking.

The building is accessed from the rear, and the parking lot provides a 40-foot space at the entrance to facilitate emergency vehicle parking. In addition, a fire access lane extends from the parking lot on the northwest side of the building, along the front of the building, and ties into the driveway entrance at the southern end of the property. The fire access lane will be constructed using pavers that will stabilize the lane, but maintain the grass at the same time for a more aesthetic appearance.

The site is served by public water, sanitary sewer and municipal storm sewer. The building will have a sprinkler system, and LaBella Engineering met with the Village of Endicott Water Department and Endwell Fire Department to determine appropriate domestic and fire water line locations and design. A new fire hydrant shall be located on site at the southwest corner of the building. An extensive stormwater management design has been submitted for adequate drainage. Mr. Brocht added that there is storm sewer right at the corner, but they are not connected to it.

A landscaping plan and lighting plan have been submitted. The lighting plan meets Code, and the landscaping plan shall be enhanced with evergreen trees along the south perimeter. Ms. Lane noted that the line of trees will be along the side of Mr. Bob Potochniak's property.

The applicant's proposal was classified as an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA) and the Planning board made a Negative Declaration determination on January 14, 2020.

As over an acre of soil will be disturbed, a Stormwater Pollution Prevention Plan (SWPPP) has been submitted and is under review.

As over an acre of soil will be disturbed, a Stormwater Pollution Prevent Plan (SWPPP) has been reviewed for erosion control measures during construction and post-construction stormwater remediation. Two infiltration basins will collect stormwater and direct it via a closed stormwater system into a detention

pond. That detention pond outlets into Patterson Creek, where the stormwater drains now on the undeveloped site.

This location was subject to a 239-Review as it is along Hooper Road, County Route 33. The Broome County Planning Department did not identify any countywide impacts, but had suggestions for site plan development, all of which have since been addressed. BMTS did not identify any issues related to vehicular site access or traffic impacts, but did recommend ADA compliant sidewalks and curb ramps. The B.C. Engineering Department advised that any work done in the County Right-of-Way, including the closure of the existing driveway and installation of the proposed driveway, will require a Highway Work Permit issued by the Broome County Highway Department. Further, the driveway entrance should be designed in accordance with NYSDOT driveway standards and guidelines. The developer should be aware that the Hooper Road Bridge (3349750) over Patterson Creek Replacement project will be under construction during the 2023 Construction season. General access to this site may be difficult or delayed during the bridge replacement project. There are no apparent impacts to any adjacent Broome County infrastructure; therefore, the DPW-Engineering has no comments related to the site plan review.

The Town Code Enforcement and Engineering departments have no concerns with the project

The Planning Department recommends approval of the site plan with the following stipulations:

1. The contractor shall utilize erosion control and stormwater runoff preventive measures during construction, per the approved SWPPP. The infiltration ponds and detention pond shall be maintained by the property owner, indefinitely, per the SWPPP. A maintenance agreement and access easement shall be reviewed and approved by the Town Department of Public Works and attorney. Subsequently, they shall be filed with the deed, and a copy of the filing receipt shall be submitted to the Town Clerk's Office prior to the issuance of the final Certificate of Occupancy.
2. Prior to the issuance of the final Certificate of Occupancy, one AutoCAD version 2015, one PDF version, and two paper copies of the as-built drawings must be submitted to the Engineering and Planning Departments. The as-built shall include all improvements, including the stormwater control system.
3. The parking lot shall be striped according to Town Code Chapter 300, Article 51, Off-Street Parking, Loading and Stacking Regulations. The required handicapped-accessible parking spaces shall conform to the Property Maintenance Code of NYS, and shall be posted with signage displaying the international symbol of accessibility. The handicap parking access spaces shall be no less than eight-feet by eighteen-feet (8'x18'). All paving and striping shall be complete prior to the issuance of a Certificate of Occupancy.

4. The “Conventional” parking plan shall be constructed if Code Enforcement requires due to a consistent issue with lack of parking. The additional parking shall commence weather permitting within one month of notification by the Code Enforcement Official. Should the building be occupied by a new business at any time in the future, the Code Enforcement Official shall be notified and a determination may be made that the additional parking be installed prior to their occupancy.
5. The landscaping plan shall be installed by October 30 of the year that follows the issuance of a building permit. An extension of this deadline may be approved by the Planning Board.
6. Trees shall have minimum caliper of two inches at the time of planting. Shrubs shall have a minimum height of two feet at the time of planting.
7. The landscaping shall be maintained according to the landscaping plan, and any dead or dying plants shall be replaced with similar plants within one month, weather permitting. Failure to maintain such landscaping or to replace dead or diseased landscaping required by this chapter shall constitute a violation of these regulations 300-54.2.
8. For any new signage, the applicant shall first apply for a sign permit from the Building Official prior to display. All temporary signs, portable signs, or balloons shall be reviewed and approved by the Code Enforcement Office prior to being placed on the property. The use of electronic message boards is expressly prohibited.
- 9 Per 300-55.4, General Requirements,
  - A. All outdoor lighting fixtures shall be shielded or otherwise contained on the property from which it originates (known as "light trespass limitations").
  - B. To minimize the indiscriminate use of illumination, lighting, except as required for security, shall be extinguished during non-operating hours. Where practicable, lighting installations are encouraged to include timers, sensors, and dimmers to reduce energy consumption and unnecessary lighting.
10. Any new exterior lighting not shown on the lighting plan shall first be approved by the Code Enforcement Officer.
11. A Certificate of Occupancy shall be required before occupancy of the new building.
12. Per NYS law, common areas within multi-family residential buildings must be inspected by the Municipal Fire Code Inspector every year. It is the applicant’s responsibility to coordinate that inspection by calling the Code Enforcement office at (607) 786-2920 once again each year after the issuance of the Certificate of Occupancy.
13. There shall be no outdoor storage on the property.

14. Site plan approval shall be valid for three years, unless substantial improvements have been made pursuant to the approved site plan and a valid building permit.
15. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of either an excavation or building permit. The applicant agrees to construct the project in strict accordance with the site plan approved by the Planning Board. Changes to the site plan following approval may require a minor site plan review or resubmittal to the Planning Board, depending on the degree of change per Section 300-63.2. Applicability.

Some issues were raised after Ms. Lane finished her report. The developer asked that the language in stipulation #4 be changed from “shall be constructed” to “shall commence, weather permitting” due to the fact that asphalt plants are not open during the winter months. Mr. Forster asked whether the Hooper Road Overlay required parking in the rear of the building. Ms. Lane corrected Mr. Forster and said that parking is not permitted in the front of the building, but it can be on the side of the building in the Hooper Road Overlay district. Mr. Auerbach, the attorney for the project, confirmed that the Municipal Code provides for no parking between the principal building and the street.

Mr. Crowley asked whether there would be storage for the lawn mowers that they use on the property. Mr. Brocht said that they have a shed on site for maintenance equipment in the far back corner of the property. Mr. Crowley also asked Mr. Brocht to describe the pavers that would be used for the fire lane. Mr. Brocht explained that these pavers were first used by the NYSDOT, and it is a grid type system. It is a structural grid system that is placed above sand and subbase; then you put the grid on it, fill it with topsoil, and seed it. Mr. Mirando noted that their goal was to get a residential feel in the front of the building with grass rather than more pavement.

Mr. Materese asked if there would be a center pole in the building for better fire control. Mr. Brocht noted that CDS had a very productive meeting with the Fire Department and they incorporated all of their suggestions into the new Site Plan. There will be a standpipe riser in the middle of the building, which allows the firefighters to connect a hose on every floor in the building without having to drag a hose up to every floor. Mr. Brocht noted that a hydrant at the entrance of the parking lot had also been added to the plans to protect the exterior of the building. The parking was also moved away from the main entrance in the back of the building to permit fire vehicles to pull up as close as possible to the building. Mr. Materese commented that by putting in the center pole, only one additional hydrant was needed on the site. Ms. Lane added that the new plans for fire protection exceed what the New York State Building Code requires. Ms. Lane thanked Mr. Mirando and Mr. Brocht for meeting with the Endwell Fire Department; she noted it had been a very productive meeting.

Chairman Miller asked for a motion to approve the Site Plan for the Hooper Road Apartments at 609 Hooper Road, with amended stipulation #4.

Motion Made: T. Crowley  
Motion Seconded: M. Jaros  
MOTION: Approval of the Site Plan for the Hooper Road Apartments at 609 Hooper Road, with amended stipulation #4.  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley, M. Jaros  
**Opposed:** S. Forster  
**Abstained:** None  
Motion Carried

**G. Homestead Village PUD, Addition of Custom Systems Integration, Inc. Advisory Opinion to the Town Board – PUD Development Plan**

Ms. Sarah Campbell, the attorney for CSI, gave a short presentation. Dave Jones is planning to build an engineering office with a light assembly use at 16 Beech Street. The site is part of the Homestead Village PUD. Ms. Campbell is asking for two things. First, to add in 12 Beech Street since it was an omission during the original PUD approval. Second, the owners are asking for approval for the proposed new use of light assembly for 16 Beech Street, which is a vacant property. Mr. Jones would like to construct a 17,000 square-foot building for his office and operations.

Mr. Jones then gave a short presentation. He owns a company called Custom Systems Integration, which has operated in the Glendale Industrial Park for nineteen years. He would like to relocate his company to a self-owned location. The company designs custom test equipment. The designs are one of-a-kind systems, and it is hard to outsource this kind of work. Half of the work is commercial and half is governmental. Mr. Jones stated that they design equipment that sits at the end of manufacturing lines that test products like cell phones, military components, IBM servers, and server parts. They design and assemble the test equipment for a company and then send the custom products to customers all over the United States. Most of the work is from the Northeast outside of this area, so his company brings dollars into the community. Mr. Jones stated that the company has a long-standing record of working with local vendors and his employees are from the community, so he wants to stay in the area.

Ms. Lane mailed information on the PUD process to the Planning Board members. She explained that it was she who had not known to include 12 Beech Street in the original PUD Plan. The PUD started with Traditions at the Glen, the subdivision, the golf course and the American Cancer Society building. Subsequently, there were some small modifications like the addition to the Traditions Spa and the Foot Golf course. All of these projects were

small expansions of existing uses. Town Code states that once you introduce a new use to a PUD, the PUD approval process must begin again. When the casino was proposed, the project required the complete PUD process; however, the casino project was not approved by the Gaming Commission.

The Town Board will hold a public hearing on the PUD Development Plan on September 2, 2020, to add 12 Beech Street and incorporate the office and light assembly use for 16 Beech Street. The scope of the 16 Beech Street project is limited; the light assembly component does not involve anything toxic to the environment. Ms. Lane had toured the current CSI location and described that it involves assembling metal and wire components. There is a lot of hands-on work putting things together, in addition to the work of the engineering staff that design these products. Projects are for a single use, so they are constantly coming up with new concepts. The only environmental impact will be the footprint of the building. Ms. Lane noted that Dan Griffiths is working on the site plan for the CSI building and he is also developing the erosion control and a parking plans. Mr. Alex Urda is working on the stormwater management plan. Ms. Lane added that Mr. Urda has worked on the Homestead PUD since 2006, so that he is very familiar with all the changes that have been made over the years.

Ms. Lane then read her recommendation to the Planning Board. Planning staff recommends the Planning Board recommend to the Town Board approval of the formal inclusion of 12 Beech Street into the Homestead Village PUD Development Plan to correct a former oversight. In addition, planning staff recommends approval of the new PUD Development Plan to include construction of an engineering office with an accessory light assembly use at 16 Beech Street. There are two adjacent properties with offices, so the proposed office fits in with the neighborhood. The proposed office will employ approximately 20 personnel, which would not have a significant impact on the other adjacent properties with residential uses.

Chairman Miller then asked for a motion to approve the Advisory Opinion to the Town Board on the PUD Development Plan for Homestead Village.

Motion Made: S. Forster  
Motion Seconded: L. Cicciarelli  
MOTION: Approval of the Advisory Opinion to the Town Board on the PUD Development Plan for Homestead Village  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros  
**Opposed:** None  
**Abstained:** None  
Motion Carried

**H. Special Permit for Floodplain Development, 328-332 Scarborough Drive,  
A. Belardinelli**

The Planning Board had previously requested an evaluation, including soil borings, -of the fill- added to the properties in question to determine stability. Mr. Urda, the engineer Mr. Belardinelli consulted with for the site evaluation, noted that he had examined the site and it seemed sufficiently stable. Mr. Urda added that the fill on the properties wasn't very deep. He did not do any test pits because he was not asked to do this by Mr. Belardinelli. Mr. Urda stated the parcels are not in the floodway or a flow area; they are in a saturated area. Ms. Lane asked Mr. Urda if the water on the site just rises during flood events and he said that was correct.

Mr. Jaros asked if the Planning Board had requested Mr. Belardinelli to do test borings and Ms. Lane answered that they had requested this, but Mr. Belardinelli did not make that clear to Mr. Urda. The main reason they were concerned about the site sampling would be if future construction were planned for the site, but Mr. Belardinelli has no plans for any future construction on the site. Ms. Lane added that Mr. Urda has indicated that this is not an area of fast moving water, so if it is seeded, the fill should not be disturbed.

Mr. Materese asked Mr. Urda whether he thought that the fill on the properties would not shift during a flood. Mr. Urda answered that the area will not shift and that is what he put in his letter.

Mr. Cicciarelli commented that he respected Mr. Urda's opinion, but he is disappointed that the Planning Board has no recourse in this situation where Mr. Belardinelli clearly did not follow the rules. Mr. Cicciarelli and the rest of the Planning Board members agree that Mr. Belardinelli should not be allowed to disregard the rules without the Planning Board imposing some kind of penalty for adding fill to the parcels without a Special Permit. Mr. Materese noted that Mr. Belardinelli will still have to pay the fines imposed by the Code Department when he goes to court, so even though he does not agree with Mr. Belardinelli flouting the rules, he will still be penalized financially.

Mr. Pope, the Town Attorney, noted that he agreed with the Planning Board that we don't want anyone to intentionally violate the rules. The Planning Board only has the authority to deny the special permit application, but doesn't have the authority to force him to remove the fill, even if that is what is wanted; that action must be done in a court of law. If the Planning Board approves the Special Permit, Mr. Belardinelli will still be subject to any fines or penalties imposed by the Town. Typically, the Town Court is the first court that hears the matter, but the Town Court's jurisdiction is very limited. The Town Court can only find whether Mr. Belardinelli violated some rule or regulation of the code, and if yes, what is the fine amount; that is the extent of their jurisdiction.

Mr. Pope added that if the Planning Board wanted Mr. Belardinelli to remove the fill, the matter would have to go before the Supreme Court.

Mr. Pope outlined the options before the Planning Board. The first option is to approve the Special Permit tonight. The second option is to delay the vote and ask Code Enforcement and the Town Attorney to take it to court. The third option is to delay and take it to Town Court first and then come back to the Planning Board; or fourth, if you really want the fill removed, the Planning Board can ask the Town Board to approve spending the legal fees to go into Supreme Court. Mr. Forster said he would like to make a motion for the Planning Board to approve the second option and see where it goes. Mr. Crowley said that he would second that motion.

Ms. Lane noted that the Planning Board had already delayed the vote the maximum per Code, or the Planning Board could write Mr. Belardinelli that they are going to delay the vote again. Ms. Lane asked Mr. Pope if that is what he would recommend to the Planning Board. Mr. Pope said that since the Planning Board has not had any cooperation from Mr. Belardinelli thus far, he is not sure that delaying the vote is the way the Planning Board should go. Mr. Ciccirelli added that the Planning Board is asking Mr. Belardinelli to plant vegetation to stabilize the fill, and he wondered if Mr. Belardinelli will actually do it appropriately.

Mr. Materese asked Mr. Pope whether the Town could add the fine to Mr. Belardinelli's taxes if Mr. Belardinelli is fined and doesn't pay the fine. Mr. Pope spoke generally about how fines are converted to civil judgments. When we take someone who is a persistent violator to Town Court, and we have good reason to believe that they are not going to do anything in the future, we ask that the fine be converted to a civil judgment if not paid within a certain number of days. Once the fine is converted to a civil judgment, it becomes a lien on the property. There are several options of applying the lien to the property, such as foreclosing on it or having it applied to the taxes. However, we first have to get the fine and then ask for the civil judgement. Mr. Pope noted that he has never been turned down with that type of a request. Mr. Materese responded that he liked the idea of a civil judgment because it would give the Town some protection.

Mr. Crowley asked whether Ms. Lane's letter to Mr. Belardinelli had requested a bore-sample. Ms. Lane answered that wording for the letter came from the Planning Board two months ago. The letter read, "To avoid the potential for loose fill washing away during a flood, the fill shall be bore-sampled for stability by a licensed engineer." Ms. Lane noted that the properties were not bore-sampled.

Mr. Pope commented because Mr. Urda has given his expert opinion regarding the composition of the fill, which is what the Planning Board really

wanted, he was not sure that the lack of bore-samples could be used in court. Mr. Pope recommended approving the Special Permit with very strong language that the Planning Board does not condone Mr. Belardinelli's violation. In addition, Mr. Pope will do everything in his power to present this limited approval to the Town Court Judge.

Mr. Cicciarelli said he is more a proponent of an approval with strong language because the Planning Board has already spent a huge amount of time dealing with this situation. He continued that Mr. Urda has given the Planning Board reassurances that the fill will not wash out during a flood if it is properly planted. Ms. Lane said the approval with the strong language motion would resolve the situation, and if he did remove the fill, then you would be left with loose soil again. Ms. Lane will work on a letter with Mr. Pope that includes language that the Planning Board does not condone the repeated flagrant violations of the code in her letter of approval to Mr. Belardinelli. Ms. Lane thought that this was the least expensive solution to resolve the problem of a persistent violator. Mr. Jaros asked Mr. Pope if they approved the Special Permit with strong language, would that prevent the Town from levying fines for the violations. Mr. Pope said that the approval would not preclude him from applying to Town Court to levy fines for Mr. Belardinelli's violations.

Chairman Miller asked for a motion to approve the Special Permit for Floodplain Development with strong language regarding Mr. Belardinelli's flagrant violation of placing fill in the floodplain without applying for a Special Permit before placing the fill at 328-332 Scarborough Drive, with stipulations.

Motion Made: L. Cicciarelli  
Motion Seconded: T. Crowley  
MOTION: Approval of the Special Permit for Floodplain Development with strong language regarding violations at 328 and 332 Scarborough Drive, with stipulations.  
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley  
**Opposed:** S. Forster, M. Jaros  
**Abstained:** None  
Motion Carried

Mr. Pope noted that the vote was close and that will send a message in itself to the Court.

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

Ms. Lane said that Mr. Kashou had contacted her about installing lights on his sports fields at 1500 County Airport Road. Ms. Miller commented that Mr. Kashou has restricted hours for the facility. The Planning Board members discussed the matter. The consensus of the members was that outdoor

lighting would negatively affect Mr. Kashou's neighbors, so they were not in favor of the proposal.

#### J. Adjournment

Chairman Miller asked for a motion to adjourn the meeting at 9:39 p.m.

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, September 8, 2020, at 7:00 p.m.

Respectfully Submitted,  
Carol Krawczyk