

Town of New Paltz Planning Board

Monday, July 13, 2020

Final Meeting Minutes

This meeting was held via ZOOM Videoconferencing and Teleconferencing.

Call to order by Chair Ruger at 7:03pm

Board Member Attendees: Adele Ruger, Stana Weisburd, Lyle Nolan, Amanda Gotto, Amy Cohen, Jane Schanberg

Board Member Absent: Matt DiDonna

Also Attending: PB Attorney Richard Golden, PB Engineer Ryan Cornelison, PB Telecommunications Engineer Michael Musso, PB Attorney John Ahearn, Town Board Liaison David Brownstein, ENCB member Ted Nitza

Public Comments

Board member Amanda Gotto read per Chair Ruger's request the public comment letter submitted by Daniel Schniedewind. (Appendix A attached).

ENCB member Ted Nitza read the ENCB's review memo of the latest submission from Trans-Hudson.

Meeting Minutes

Chair Ruger asked for a motion to approve the meeting minutes for February 24th, 2020.

Motion 1 by Jane Schanberg. Motion 2 by Stana Weisburd. All present in favor. Motion carried.

Application Review

PB 20-119 Schuler Accessory Apartment, Brookside Road - removed from tonight's agenda by the applicant.

PB 13-15 Trans-Hudson/CVS Site Plan

Chair Ruger noted that it was her understanding that they have very specific areas of this application that they will be dealing with and that Attorney Golden will describe that.

Attorney Golden commented to the Board that there is a request by the applicant for some waivers and just to answer some other comments that may have been floating around it is the applicants right to go ahead and ask for these waivers that are provided for in the code, noting there's no ability of this Board to say no that we (the Board) do not want to entertain waivers you have to go get a variance, noting if they don't get waivers they have a choice of their own to potentially seek variances from the ZBA but in the first instance under the code they specifically have the right to come before the Board and ask to properly consider their request for variances. He noted that as he

read the papers including those that were submitted today, the applicant is requesting waivers from two design standards and they're allowed to ask for waivers from design standards, and they are also sort of conditionally asking for a third waiver from design standards if the Board is not going to allow them outright to go ahead and have the Empire State Trail within the buffer.

Attorney Golden proceeded to speak about the three waivers and also wanted to put in context before the Board starts any discussions, or have the applicant actually weigh in and explain what they're doing, and also to hear from Ryan. Commenting on, he stated one of the design standards, which under architecture is that building shall have at least two occupiable stories, adding that the concept plan that's being put before you not for approval but just for purposes of determining these waivers does not have two occupiable stories and so they're asking for a waiver from that design standard under architecture. Attorney Golden also noted that to be clear tonight is not for substantive comments generally on their concept plan that they have put in or on SEQRA or anything else, noting an applicant has the right to go ahead within certain reasonable boundaries to decide the course of what they want to put forth before a Planning Board for a decision and right now they're asking just for the waiver issues to be put forth before this Board.

Attorney Golden noted that the first waiver is two occupiable buildings, the second one is a drive-thru for food and beverage services which under the design standards is prohibited but again the code specifically allows you to waive matters and requirements that are in the design standards, and the third one which was raised this afternoon in response the comments from the ENCB is whether or not there is a need to seek a waiver to allow the Empire State Trail to go through the anticipated vegetative buffer that's otherwise required and if it is required to get a variance from that then the applicant is asking for a variance. Noting that this was his advice to the Board is to defer, and noted he will explain why, and to defer the board's discussion and decision on a waiver on the two occupiable stories and also with respect to the Empire State Trail going through the vegetated buffer, explaining that he felt that the provisions in the code are not clear enough for the Board to a determination, noting that he had discussed with the Board previously that different boards have different powers in jurisdiction and your power is not to interpret the code as that's specifically for the building inspector but are obligated to follow the code specifically and when it's not clear what that code provides, the courts have said that you don't have the power to decide what it says, as that's up to the building inspector, noting that the first one the building having two occupiable buildings there is a design standard that says that under the architecture, however, there is also a provision requiring two occupiable stories in the bulk requirements, both in the text as well as in the bulk table, and although one could might say that while that's if you look at it it's a singular building or principal building it's not as to all even if you were to grant a waiver from the design standard for two occupiable buildings, is still in uncertainty whether that grants any relief because there is this issue of no to occupy I mean it must be to occupiable stories under the bulk table advising the Board that this ought to be deferred and referred to Stacy for an interpretation as to what these provisions mean in the code, and then you would have an opportunity potentially if she says that it's a design standard that could be waived then you could pick it up at that point of time, all a suggestion from Attorney Golden.

Attorney Golden noted on the second deferral that he is suggesting to you is with respect to the Empire State Trail going through the vegetative buffer, as there is a requirement for the buffer and it's to have a 30-foot substantial vegetated natural buffer, noting that it's unclear that simply by which is what the ENCB is asking simply by putting a trail through there that defeats the language of having a substantial vegetated buffer of 30 feet, noting he does not know if the Board can make that determination and so his suggestion to the Board is that they defer that to Stacy, and Stacy will make that call whether you are able to consider having a trail go through there or having a trail go through there automatically defeats the 30 foot substantial vegetated buffer that's required under the code and that leaves, if you followed those suggestions, a waiver discussion tonight on the issue of a drive-thru for the food and beverage service. Attorney Golden explained to the Board that the standard for allowing a waiver is that the applicant must show that there are practical difficulties in enforcing the design standard, that there would be if it was enforced, there would be an adverse impact on the surrounding properties and neighborhood and whether or not it was feasible to have an alternative means to the waiver that would be consistent with the purposes of the zoning for this area. Attorney Golden recapped his suggestions of the three potential waivers that the Board ought to defer to the building inspector are the two occupiable stories and the 30-foot substantial vegetated buffer with an Empire State Trail going through it, and consider the drive-thru for the food and beverage service and focus there with that. Attorney Golden noted that the applicant has focused in on these issues and it is the Board's determination whether or not it is adequate, and how you deem it as to deciding whether to waive that provision, and whether or not there is a practical difficulty in having that requirement so that it should be waived, whether or not there would be an adverse impact on the neighborhood and properties if it would weigh if it was waived and whether or not it's feasible to have an alternative means to the drive-thru that would be consistent with the goals of the zoning.

Ryan Cornelison commented that Attorney Golden gave a great summary, and noted that tonight's goal is to look at these two waivers but noted he also had plan comments as well but Chair Ruger asked if he would address the issues talked about tonight. Ryan noted that he had spoken with Attorney Golden, and that they came to the agreement that on the waiver for the building height, since it is listed in two places, under both a bulk requirement and a design standard, it should be deferred to Stacy for an interpretation as to whether the Board will have jurisdiction, and then the drive-thru window the code lists three requirements, noting that in this district, so it is to be located behind the building, it is to be integrated architecturally into the building and does not require the additional curb cuts and/or separate curb cut for ingress and egress to the street, and then it says drive-thru windows for food and beverage services are prohibited, commenting that without any further details on the plans, the drive-thru meets the three things but that would up to the Board to determine whether the applicant has shown their difficulties in meeting the design requirements.

Attorney Kathy Zalantis from Silverberg and Zalantis LLC and is representing the applicant, noting first to thank to Board for having the meeting virtually adding that she understands that these are very difficult times and hoped that the Board and their families were healthy and remain healthy. Attorney Zalantis noted that with her tonight

are Justin Dates from Maser Consulting, as well as Ary Freilich and Neal Borden, representatives from BFB (New Paltz LLC and Trans-Hudson Management Corp.). Attorney Zalantis noted that she understands that the Village has indicated it supports their plan, and that also it indicates that they've come a long way with this plan so much that the Village has indicated they are willing to provide municipal water and sewer to the project. Attorney Zalantis add that this plan also comes with significant amenities to the Town, as her client is essentially constructing municipal uses for the Town. The EST (Empire State Trail) is being extended throughout the entire property, and the plan proposes a municipal parking lot and municipal restrooms, adding that this a significant recreation amenity that comes to the Town only with respect to this project, adding that also the project substantially conforms to the intent of the MSMU zone. Attorney Zalantis also acknowledged that the Town and its committee spent countless hours on the new proposed zoning, and for them to come up with a plan that met the objectives of the MSMU zone, and she believes that their plan conforms to the intent that it creates a village type feel. Attorney Zalantis also noted that all the parking is behind the buildings, and the front of the buildings face the street, adding that there is bike and pedestrian access and it meets the vast majority of the design standards. She added that if you go through the code there are numerous design standards unlike some mixed use developments that are completely, totally private developments, and this plan melds a retail commercial development with a public recreation use the public in the community will directly benefit from this project. She also added this project unlike other mixed-use developments and the Village Board actually discussed this, and from what they can tell from their meetings, they said something to the effect that the concept would be a great welcome to the visitors to our community and would address safety concerns and parking issues, unlike purely mixed-use developments, adding that it would encourage more bikers and walkers to the Town and in the Village, with less dependence on cars that offers a lot to the Town and Village.

Attorney Zalantis commented that they have requested previously two waivers, and then in the letter submitted earlier today to the Board she requested a third alternative waiver that was raised by the ENCB in the letter received today to her clients. Attorney Zalantis stated that they need to know that this a viable plan, noting they cannot proceed with what is a substantial amount of money, a substantial amount of time in pursuing the site plan review process without knowing if this plan is viable, by needing to know if the waivers are granted. Attorney Zalantis noted the Board's counsel and his directive with respect to trying to find out if there is in addition to a design standard, a bulk standard with respect to the two occupiable level stories, as it in fact is a bulk standard even though we do not believe it is a bulk standard, and this Board wouldn't be able to provide relief, as they would have to the Zoning Board to get a variance, noting that she thinks the variance would likely be granted because there's numerous examples in the entire community of one-story retail developments, but noted that is an argument for another day, but also noted she didn't understand that at the most, the EST through the vegetative buffer is at most a design standard, and it's not a bulk standard so she asked if the Board would consider granting that design standard today, as she thinks that design goes to the very objective, and it's the fundamental to this plan and without that there is no way to proceed with this plan as it makes no sense to site a trail, a nature trail, through a parking lot, as the goal of this nature trail is to be in nature

surrounded by nature, surrounded by trees and where they are proposing to site the trail is surrounded by a vegetative buffer on both sides of the trail, adding that she thinks that it is a much more enjoyable experience for those that are going to be walking on the trail, for bikers that are going to be using the trail, to be in nature rather than up against a proposed building. Attorney Zalantis concluded that for the reasons outlined in the letter today that the Board potentially also consider that waiver request, and referring back to the other two waiver requests they've made retail uses on a second story, and that requirement to have two occupiable stories, and a retail use on a second story, or commercial use is not practicable as the vast majority of retail spaces are one-story, and there are plenty of examples throughout the community of that, and the suggestion to build some other type of use is also not practicable because we already proposing essentially municipal uses, noting there is a cost to constructing essentially municipal restrooms, municipal parking lot, and a trail that extends the entire length of the property, none of that generates income, as those are amenities, all recreational uses and her clients cannot incur the costs of putting wasted space on buildings when they're already expending a substantial amount of time to develop those uses that do not generate revenue. Attorney Zalantis also noted that in respect to the other food, beverage use, it is their understanding after going through the three items, it does conform architecturally, and they are just proposing a drive-thru on a food and beverage type use, as this type of development screams for food and beverage type use that it won't be a successful development if there isn't a food and beverage type use in this development, especially when factoring in the municipal parking lot, the trail people wanting to be able to come park their cars, maybe grab something to eat, grab something to drink, and then partake of the trail and the amenities, and go on to see other parts of the Town, in the Village, adding that in this post Covid world that food and beverage tenants mandate that there be a drive-thru, so its just not practical to not offer a drive-thru, as it's a health issue at this point, for people to drive up and get their food, beverages so it is a standard that requires a different mindset, and noted that we all have to alter our way of thinking, the plans meet the MSMU purposes and intent, and we've detailed that in our letter that this not a private development, and the benefit from this development is going to have a retail commercial component but it has a public recreational use and there is absolutely no adverse impacts from allowing these waivers.

Attorney Golden stated he wanted to address the need for either a deferral or for the Board to consider a waiver on the EST on the buffer, noting the reason he said it should be deferred is that in the letter today from Kathy (Attorney Zalantis) she indicated that she believed that no waiver was required but if a waiver was required then they're asking for a waiver, and stated it was his position that the Board can't make that determination of whether a waiver is required under this because it is really an interpretation of the code, whether or not a trail going through a buffer automatically defeats the buffer, and if the applicant is willing to assume that in fact it is a design standard that needs to be met then the Board can consider that tonight as he has no problem with that, but it was the way it was framed in the letter that it cried out for a two-step process whether or not a waiver was required, which he thinks requires an interpretation.

Board member Jane Schanberg asked what the width of the EST. Justin Dates from Maser Consulting responded it being proposed at 10 feet, which Jane noted then its 10 feet and occupies the center by your concept and asked if the 10 foot wide trail would occupy the center of the 30 foot buffer, which means there would be 10 feet of vegetation presumably on each side of the trail comprising. Justin Dates noted that Jane was correct, that it is in the center of that buffer and they will be doing some grading associated with the trail and will look to preserve as much of that existing vegetation in those additional 10 foot areas. Justin explained the trail with a mild slope of 5% max which Justin added that west into the site to adjust and provide supplemental plantings. Attorney Zalantis noted that they would be enhancing the vegetative buffer and that there is an opportunity for that here for additional plantings around the trail.

Chair Ruger noted with the advice from Attorney Golden, they could vote or have a discussion on the drive-thru.

Member Lyle Nolan commented that he saw very little difference between a drive-thru and curbside delivery where people are pulling up in their cars and waiting, noting he wasn't sure what the difference is in terms of impact on anything, so he stated he is more in favor of drive-thru that would be a more organized way.

Member Amy Cohen stated she also supports the drive-thru, noting it is a great way especially now for people to get what they need without having to exit their cars, and it keeps our community safe. Amy added that it's easy for people to just pop over, get what they need and leave. She doesn't think that people are going to be leaving the thruway to come to one drive-thru that happens to be over there when we have other drive-thrus right down the road that are further away from the exit. Amy stated she thinks that there's plenty of room in the Town for more food, noting that we have a lot of places to eat and we should always welcome more variety, more opportunities for different types of products for our community, our residents, our visitors and added that she 100% supports the idea of drive-thru, whether it's food or whether it's something else in retail.

Member Amanda Gotto commented that one of the things they've heard was that if there is an alternative, and possibly one of the alternatives she hadn't seen mentioned here in the design is outdoor dining, which seems to be another way to stay safe and healthy without going into an indoor spot and there seems to be a lot of appreciation of that in the Town right now, or it may turn into a rest stop for people to pull off, grab something, and jump back on the Thruway. Amanda stated she didn't know if that was ever considered in the traffic study before because the other restaurant that was planned didn't include a drive-thru as it was only the pharmacy that was going to have the drive thru so she didn't know if that impact has really been evaluated appropriately as to what that might mean, as outdoor dining would be another alternative.

Attorney Zalantis noted that this something that they could certainly consider as the site plan review goes forward but that is no an alternative to a drive-thru, adding that as the other member noted, it is similar to curbside pickup and really no different than having a drive-thru as it's safer, more secure and more organized way of picking up food which I think the requirement was that we need to have food in this location as it screams for a food tenant. Amanda Gotto added that nobody is denying that. Attorney Zalantis stated

that she thinks her clients can speak they've had conversations with potential tenants with a drive-thru. Lyle Nolan commented that he thinks the other issue is that outdoor dining is somewhat seasonal and weather dependent, and thinks that the drive-thru is a safer alternative at this point.

Member Stana Weisburd commented that as far as the drive-thru being thought of as a safety concern, noted that with Covid is not necessarily going to be where we're going to necessarily have to socially distance forever, so I don't necessarily think we have to think of it in terms of the reality that we're living in right now that may or may not change in the future, adding obviously we don't know but didn't want to assume that indoor dining is never going to happen again.

Chair Ruger stated she did not think that is what they are saying.

Member Jane Schanberg commented that she would like address her statement to the applicant that when they're considering clients they would love it to have a little bit more upscale than something like Taco Bell or Five Guys, something more like Chipotle or Panera, if there's that choice we'd like to see something a little bit different.

Chair Ruger noted that things have changed, and some of the things that have changed because of Covid are going to be permanent she thinks, and a drive-thru is an incredible convenient way to pick up food for your family in the winter if you have a sick kid in the car so she is for the motion.

Member Amanda Gotto added one more thing that this was a very deliberate choice on the part of the committee and the Board when they approved this part of the zoning and wanted the Board to just keep that in mind.

Attorney Golden commented that Amanda's point is something that they should consider that they specifically required this type of design standard but by the same token they also specifically provided that it could be waived by this process that you're going to put it as, and they could have put in a bulk requirement and therefore not waivable or kept it as a separate design standard that wasn't going to be waivable but he thought they have to look at the entirety of the new zoning as to what it requires, what was put into bulk, what was put into design standards and the fact that different from other provisions of the code gave a rather broad-based waiver process for those items, specifically that were in the design standard.

Attorney Golden advised the Board on the motion to be in order that the requirement of a prohibition on drive-thru for beverage and food in this zone be waived in accordance with provisions of the regulations based upon the comments tonight, the application and rationale provided by the applicant's attorney as well as the opposition letter that we heard from the public, and also the ENCB position on the drive-thru.

Motion 1 by Adele Ruger that the requirement of a prohibition on drive-thru for beverage and food in this zone be waived in accordance with provisions of the regulations based upon the comments tonight, the application and rationale provided by the applicant's attorney as well as the opposition letter that we heard from the public, and also the ENCB position on the drive-thru.

Motion 2 by Jane Schanberg. 4 in favor, 2 opposed. Motion passed 4-2.

Attorney Golden noted that the Board take into consideration beforehand which is why he didn't raise it but just so that the Board understands the process, that if the waiver if its is unanimous it is absolutely granted at this time, if it is not unanimous but it passed by a majority which this did 4-2 according to his count, they do not get the waiver right now but they have an option of going to the Town Board and seeking the waiver from the Town Board now that it has passed sort of an initial threshold so the Board has voted as required, and as requested by the applicant, the consequence of a majority in favor but not unanimous means that the waiver still has not been granted but the applicant has the ability to try to get that waiver now granted by the Town Board which if it didn't pass by majority wouldn't even have that option.

Chair Ruger asked if everyone was clear on that, continuing to suggest that the Board hold off on the other two waivers and take the advice of their attorney and wait to hear from the building inspector.

Attorney Golden noted that he certainly did suggest that in the very beginning but when the applicant's attorney Zalantis indicated that she would like it to be considered tonight, what that means to him is that she is not asking this Board to read the code, to say that it is not even design standard that needs to be waived but if they were to waiver on it because they believe that at least arguably it is a design standard that needs to be waived, then he thinks the Board can take up that issue this evening because it doesn't have to go the Zoning Board because they are assuming now it is a design standard. Attorney Zalantis wanted to clarify that the building inspector can still or determine that it's not a design standard that needs to be waived but to the extent, adding she's not asking the Board to determine whether it needs to be waived or doesn't need to be waived, she's saying that the extent it is a design standard this Board would have the authority and the right to grant that waiver, and the Board could do that tonight but the building inspector can still determine it never needs to be waived in the first place because it didn't apply, but Attorney Golden thinks the Board should go ahead and defer to the building inspector.

Attorney Zalantis noted that her client is going to ask her is there any timeframe on whether we could expect the building inspector to weigh in on these issues, which Attorney Golden stated he can't speak for the building inspector but the building inspector has shown in the past a good attention to timeliness with respect to her decision-making as she was just asked to make a very complex decision-making on the Homeland Towers process on a number of issues and that was done in less than two weeks, so he did not think that this is not going to slow down the process by any appreciable manner, and suggested with no objections that he could write to the building inspector on behalf of the Board asking for the interpretation of whether or not there's a right to put a trail through there without defeating it or whether or not that is a design standard that is subject to the waiver provisions of the new regulations.

Member Amy Cohen stated she thinks it's a terrific idea, noting she's been a retailer for over 25 years and knows for sure that retailers who are on the first floor do a lot better than retailers on a second floor and from her personal experience the second floor

location for anybody who's in retail is a disaster, noting she can see it for professional offices possibly as far as housing and she been very very clear on this board that I do not support housing at this location, adding she does not think it is a healthy or responsible place for us to have families, **Amy has presented many articles which illustrate that living on major roadways has detrimental has health effects** so she really likes the idea of just having the retail on the one floor, and extending all of that energy into the trails and into the vegetation and into making it a park-like setting and this is something that we talked about five and a half years ago and 100% supports that. Amy added that she wanted" to thank you guys for coming back with that, it's something that our community really, really needs; we need a place for people to park a car and go to the bathroom and I've been talking about this for many, many years in New Paltz and I'm happy to see that. Hopefully we'll have a project like this where we can welcome our guests with a nice place to sit down and something to eat and somewhere to shop and I just really want to thank you for your patience with New Paltz, and I know it's really not always the easiest place to do something so just thanks again for sticking with us."

Member Amanda Gotto noted that she knows what the EST looks like on 299, as it's paved and asphalt and everything, but does this trail have to look the same way or does the DOT have the only say about the width and the materials and so forth because paving is part of the issue.

Justin Dates noted that he thought they met last year with the DOT, and right now thinks it would be identical to what you see on 299, an asphalt multi-use trail but that is a detail they could always discuss with them (DOT).

Chair Ruger asked if everyone was okay with the proposal that we wait to hear from the building inspector, asking for a straw vote, all six voted yes (5 with their hands raised, 1 voice Yes from Lyle Nolan).

Member Amanda Gotto noted that Ryan had a number of other things that he had pointed out about the application and can the Board assume the applicants are going to deal with those and get us that information. Chair Ruger stated that with what they have from the applicant today was just something very preliminary and the impression she got and asked to be corrected if wrong, is that they don't want to move forward unless these things are taken care of so we're not going to get much more from them until we get these waivers. Attorney Golden confirmed that was his understanding as well and Kathy (Attorney zalantis) can speak to this more but his understanding was the concept plan was put forth not for substantive responses back on it but for purposes of context for the two waiver requests that they had.

Attorney Zalantis noted yes that was correct and its just really economics that we cannot spend the time and the money developing site plans if we do not have a plan that works and we don't have a plan if we don't have the waivers so yes, but we obviously if we get these waivers we will address all the issues that your engineer raised, and we will also address the issues raised by the ENCB because I think I will be able to address many of the issues in the site plan review

context but we first need these waivers to be granted to proceed with the site plan review.

Chair Ruger noted per her understanding that they cannot grant the bulk waiver as that would be a ZBA something that you would have to go to the ZBA. Attorney Golden stated that if it is determined the two occupiable stories is determined to be absolutely or in part a bulk requirement then that bulk requirement could not be waived except by a ZBA area variance.

Attorney Zalantis asked if she would have the opportunity to submit something to the building inspector outlining the position about why we do not believe it's a bulk standard because it would render the rest of the code meaningless and there would be no purpose to make it an architectural standard and it uses different language in the bulk requirements as we're not proposing a typical principal building surrounded accessory buildings that's what she believes the bulk standard addresses as these are going to be five separate buildings which is allowed in this zone; adding it's a creative zone and that's part of the benefit of this zone but asked would she have an opportunity to make that argument to the building inspector or could she pass along the letter that she has already submitted. Attorney Golden stated she could do either, noted what he was going to do was along with contacting the building inspector with respect to the buffer issue, is also indicate that the issue on the two occupiable stories and that the Planning Board needs to get an interpretation of the code on this but noted he can wait and receive a letter from Kathy, and he can then go ahead and include that with his or she can supplement his request with her letter which however she wants to go but certainly thinks it's a most efficient for that issue to be fully argued as much as possible before the building inspector rather than having the building inspector do it in isolation and then force you to go ahead if it's not favorable to you to have to then argue the same thing that you would have argued before the building inspector before the ZBA.

Attorney Zalantis stated she would like that opportunity and will send it to Attorney Golden.

Justin Gates noted that the Board has a July 27th meeting and asked if they anticipated if they had it, wondered if they could shoot to be on that agenda in hopes to getting response from the building inspector. Amy Cohen noted they could be put on the July agenda and if needed, be moved to the first August meeting. Chair Ruger noted they could be put on the agenda and for some reason we do not have the response we could take them off.

Chair Ruger thanked all for coming to this nice meeting and asked for a motion to adjourn.

Motion 1 by Stana Weisburd to adjourn. Motion 2 by Amy Cohen. All in favor. Meeting adjourned at 8:12pm.

Attachment A

Attachment A

July 13, 2020

Dear Planning Board Members,

I defer to you and to your legal counsel as to whether the waivers sought by Trans-Hudson are best evaluated by the Planning Board or whether they should be pursued as variances before the ZBA.

If the Planning Board will consider the waivers, I ask that you insist that the applicant provide additional evidence for the “practical difficulties” that are cited as the reasons for their waiver requests. More specifically, they claim that the second story required by the MSMU zoning would have “little or no possibility of being occupied or leased” but provide no evidence other than “common sense.” As you know, throughout New Paltz there are countless examples of retail/commercial establishments in buildings in which there is also a second tenant upstairs. Contrary to the applicant’s dubious claim, there would likely be high demand for the second story space for use as professional offices, studio space, or for other uses. Second, the applicant claims that “it is a fact of life that virtually no food establishment will henceforth enter into a lease for space that does not have a drive-thru.” Once again, no evidence supports the hyperbolic assertion that the financial solvency of restaurants now depends on drive-thrus. Numerous restaurants in New Paltz now offer curbside pickup without a drive-thru. In any case, the Planning Board must consider the long-term future of this site which extends far beyond the end of this pandemic. The purpose of the Gateway Rezoning was to avoid the construction of a defacto Thruway rest area on this site. If the Planning Board is to consider these waivers, please insist that the applicant provide adequate empirical evidence to justify them. There are other reasons to be concerned about specific details in this “concept plan” but for now I confine my comments to the waiver requests.

Thank you for your consideration,

Dan Schniedewind
New Paltz