

APPROVED: 2/18/10
MINUTES OF THE
TOWN OF HIGHLANDS PLANNING BOARD
JANUARY 21, 2010

A regular meeting of the Town of Highlands Planning Board was held in the Court Room, Town Hall, Highland Falls, New York, on Thursday, January 21, 2010, at 7:00 P. M.

THERE WERE PRESENT:

Board Members:

Erik Smith, Chairman
Cathy Kelly
John Hunter
Chris Dyroff

Absent

Terry Holt

Mark Taylor, Esq. (Rider, Weiner & Frankel, P.C.)

ALSO PRESENT:

Holly Gokey, Councilwoman, Mervin R. Livsey, Jr., Councilman, John Hager, Building Inspector, Bob Monroe, John Blanc, Brian Andreichuk, Brian Krzeminski, Nick Rockwell, Marian Rockwell, Sal Fiducia, Ann Marie Fiducia, and Perry Spacone.

The meeting was called to order at 7:00 P. M. with the Pledge to the Flag. It was noted that there was a quorum present.

The Chairman noted that Mr. Gregg Lawless was not present this evening but sent the Board a letter.

At 7:04 P. M., the Public Hearing for Site Plan Approval B1 Lot 23 for Gregg Lawless was opened.

Mr. George R. “Bob” Monroe, 15 Franklin Street, Fort Montgomery 10922. He lives above the lot in question that Mr. Lawless refers to as an “open air storage area.” In his opinion it is a junk yard. He noted that Russ Hawkins had a junk yard up on Mine Road in the woods and he was closed down. He does not see how this Board can approve something like this. He asked where Mr. Lawless lived and what the restrictions are for this property at the present time. He questioned the process of mailings.

The Chairman explained that this Board will continue this Public Hearing when the Applicant is present for him to respond to question from the public. He stated that the Applicant did get a variance from the Zoning Board of Appeals for this exact use which he is proposing. It is described as an “open space storage/parking area.” It was not a use that was in the Code the way it was proposed. The ZBA held a Public Hearing and the use variance was granted.

Mr. Monroe feels that if this Board approves this it will be creating a junk yard in the middle of Fort Montgomery. He stated how the members of the Fort Montgomery Battle Site and the Garden Club have been working to improve the area along Route 9W. He also noted the Master Plan's mission to improve the appearance of the community and the fact that Fort Montgomery is an important part of the Revolutionary War history. He is against the project and hopes the Board acts accordingly.

Mr. Mervin R. Livsey, 107 Mountain Avenue, Highland Falls, NY. He asked that for the record it be noted that he is speaking as a resident of the Town of Highlands and not as a Member of the Town Board. He agrees with Mr. Monroe. There are many organizations in the area that are committed to cleaning it up. He feels that in the past year the enhancement is noticeable and that Fort Montgomery is starting to look nice. The Garden Club, Vision, and Volunteer organizations are putting a lot of hard work into the area. He estimates that 44,000 people travel to West Point, with Fort Montgomery the first community they see.

He noted that there is a new Abandoned Vehicle Law to be considered, and the possibility of leakage and following DEC and OSHA regulations. He feels that if the Board decides to approve this, it will be responsible for any problems. Putting a storage facility in that area is not going to enhance the community at all. He hopes the Board will reconsider this.

Mrs. Ann Marie Fiducia, 71 Corbin Hill, Fort Montgomery, NY. She overlooks the area and feels it does not enhance the property she owns and looks like garbage at the bottom. The Patriot Garden is almost diagonal to it, with people going there for quiet thought, and they have different organizations meeting there. It is not a good place to drive into and see this opposite that Garden.

Mr. Nick Rockwell, 101 Forest Hill Road, Fort Montgomery, NY. He owns the motorcycle dealership that is probably 150 feet away from this lot. He stated that he did not receive the mailing for this variance.

At 7:14 P. M., a motion was made to Adjourn the Public Hearing.

Motion: Mr. Hunter Seconded: Mr. Dyroff Approved

At 7:15 P. M. the regular meeting was opened.

A motion was made to approve the November 19, 2009 Minutes, December 17, 2009 Minutes, and the January 13, 2010 Workshop Minutes, as amended.

Motion: Dr. Kelly Seconded: Mr. Hunter Approved

COMMUNICATIONS:

- Rural Features Pamphlet
- Certificates from the County of Rockland
- Year End Report from the Building Department
- A letter from Chairman Smith to the Planning Board
- Emails from Orange County for training opportunities
- New York State Planning Federation for Membership

- Association of Towns Annual Meeting – February 14 – 17, 2010
- Orange County of Public Works

VOUCHERS – December 2009

Rider, Weiner & Frankel, P.C. (Attorneys)	
General Planning	\$ 87.50
Lawless	333.72
Hudson Highlands	52.50
Bennett	157.50
Rockwell	542.50
Andreichuk	35.00

The Chairman will submit the signed vouchers to the Comptroller.

OLD BUSINESS

Gregg Lawless (Site Plan Approval B1 Lot 23)

Mr. Lawless was not able to attend this meeting. This will be discussed at the next meeting. He provided a letter of his interest. A letter was received from County Planning asking for buffers. This will be discussed when the Applicant is present to respond. This letter was given to each Board Member.

Andreichuk/Krzeminski (site Plan R-1-R Zone Section 15 Block 3 Lot 3)

The project received the required variance from the Zoning Board of Appeals. The project was referred to County Planning. They had no comments and referred it to this Board for local determination. All requirements have been met with regard to the Folchetti Comment Letter from November 18.

RESOLUTION OF SEQR DESIGNATION
AND DETERMINATION
BRIAN ANDREICHUK AND BRIAN KRZEMINSKI
SITE PLAN

Planning Board Member Chris Dyroff1 presented the following resolution which was seconded by Planning Board Member John Hunter.

WHEREAS, an Environmental Assessment Form (the “EAF”) was prepared in October 2009, for application for a Site Plan to allow for the construction of a garage and deck addition to a single family home on real property located at 4 Bridge Terrace, in the Town of Highlands and which is designated on the Tax Map as Section 15, Block 3 Lot 3 (the “Action”); and

WHEREAS, the Planning Board has determined that the Action is an unlisted action under Part 617 of the General Regulations adopted pursuant to Article 8 of the Environmental Conservation Law the Planning Board determined to conduct an uncoordinated review; and

WHEREAS, the Planning Board has heretofore designated itself lead agency; and

WHEREAS, the Planning Board has heretofore reviewed the EAF together with any other supporting information, and analyzed and considered any relevant areas of environmental concern and the probable environmental impacts of the Action to determine if the Action may have any significant adverse environmental effects.

NOW THEREFORE, BE IT RESOLVED:

1. The Planning Board does determine that the Action is an unlisted action under Part 617 of the General Regulations adopted pursuant to Article 8 of the Environmental Conservation Law and the Planning Board did conduct an uncoordinated review of the project.
2. The Planning Board does further determine that said Action will not have a significant adverse environmental impact and, therefore, does issue a negative declaration.
3. The Planning Board hereby authorizes the Chairman to execute and file the Environmental Assessment Form and Negative Declaration attached hereto in accordance with the applicable provisions of law.
4. The Town Clerk shall maintain the EAF, Negative Declaration and all other SEQR documents and notices pertaining to the Action on file and available to the public during regular business hours.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

<u>Terry Holt, Member</u>	voting Absent
<u>Cathy Kelly, Member</u>	voting Aye___
<u>Christopher Dyroff, Member</u>	voting Aye___
<u>John Hunter, Member</u>	voting Aye
<u>Erik Smith, Chairperson</u>	voting Aye

State Environmental Quality Review

NEGATIVE DECLARATION
Notice of Determination of Non-Significance

Project Number N/A

Date: January 21, 2010

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Planning Board of the Town of Highlands, as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Andreichuk Site Plan for Garage Addition.

SEQR Status: Type I
Unlisted

Conditioned Negative Declaration: Yes
 No

Description of Action:

The action consists of the site plan approval of the construction of a garage and deck addition to a single family home.

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

4 Bridge Terrace, and designated on the Tax Map as Section 15, Block 3 Lot 3 in the Town of Highlands, Orange County, New York.

Reasons Supporting This Determination:

(See 617.7(a-c) for requirements of this determination; See 617.7(d) for Conditioned Negative Declaration)

The Planning Board has considered the action and reviewed the environmental assessment form and other supporting information. The action is an unlisted action.

None of the criteria set forth in Section 617.7 of Part 617 and any other supporting information identify relevant areas of environmental concern which would lead to a determination that the action may have a significant effect on the environment either in the short term, long term or cumulatively given the likely consequences, setting, probability of occurrence, duration, irreversibility, geographic scope or magnitude and the number of people affected. No relevant areas of environmental concern are identified.

With respect to the criteria that are considered indicators of significant effects on the environment, the lead agency has considered the following:

Impact on Land

The proposed project will result in the construction of a garage and deck addition to an existing single family home. The site is located adjacent to existing residential development. The project site does not have any unique or sensitive features which could result in potentially large impacts on the physical environment. Based on the fact that the plan is in compliance with the zoning law requirements for the proposed use in the R-1-R Residential Zoning District, the Planning Board accordingly finds that there are no significant unmitigated impacts on land associated with this action.

Impact on Water

It is not likely that the proposed action will have any significant effect on water quality. Potential harmful impacts associated with surface, groundwater and stormwater management will be mitigated through the implementation of the project design.

Impact on Air

The action is not anticipated to have a significant impact on air quality.

—

Impact on Plants and Animals

No significant impact on threatened or endangered species, non-threatened or non-endangered species or habitat, either riparian or on land, is anticipated as a result of the project.

Impact on Agricultural Land Resources

Agricultural activities do not take place in or around the subject site. The project area is currently zoned for residential development and accordingly no significant harmful impacts are anticipated on agricultural land resources as a result of the project.

Impact on Aesthetic Resources; Visual Impacts

The Planning Board considered potential project impacts on visual and aesthetic resources, and no significant harmful impacts are anticipated on aesthetic or visual resources as a result of the project.

Impact on Historic and Archeological Resources

No significant harmful impacts are anticipated in regard to historic or archeological resources as a result of the project.

Impact on Open Space and Recreation

The project area currently consists of an existing single family home and therefore the addition of a garage and deck will not impact open space or recreational facilities.

Impact on Critical Environmental Areas

The proposed project is not within a Critical Environmental Area.

Impacts on Traffic and Transportation

The action involves a minor change to an existing developed parcel, and it is not anticipated that the proposed action will have any significant, unmitigated impacts on the subject area.

Impact on Energy

No significant impact would be expected in the area of energy resources as a result of the project.

Impact on Noise and Odor

The Planning Board finds that the proposed action would not create any significant noise or odor impacts.

Impact on Public Health

The Planning Board has considered site access, such that emergency vehicles can maneuver around the site adequately. No significant harmful impacts would be expected in the area of public health and safety as a result of the project.

Impact on Growth and Character of Community or Neighborhood

It is not anticipated that the project will lead to any significant growth or subsequent development.

Any other long term, short term, cumulative, or other impacts not identified above

No additional long term, short term or cumulative or other impacts are anticipated.

In reliance upon the EAF and after a hard look at the potential impacts it indicates may be reasonably expected in comparison to the criteria set forth in the SEQR regulations, the Planning Board determines there is no indication that the action may have a significant impact on the environment.

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed, and identify comment period (not less than 30 days from date of publication in the ENB)

N/A.

For Further Information: Town of Highlands

Contact Person: Erik Smith, Planning Board Chairperson

Address: 254 Main Street,
Highland Falls, New York 10928

Telephone Number: (845) 446-4280

For Type 1 Actions and Conditioned Negative Declarations, a Copy of this Notice Must Be Sent to:

Chief Executive Officer, Town of Highlands
The Lead Agency

Other involved agencies (if any):

Any person who has requested a copy:

Applicant (if any):

A Copy of the Notice Only Must Be Sent to:

For Unlisted Actions, a Copy of the Negative Declaration Must Only Be Sent to *The Lead Agency*

A motion was made by Cathy Kelly and seconded by Chris Dyroff to approve the following Final Site Plan Approval for this project:

BRIAN ANDREICHUK AND BRIAN KRZEMINSKI

Nature of Application

Brian Andreichuk seeks to construct an addition to a single family home, the purpose of which is to add a garage and deck on property located within the R-1-R Residential District of the Town of Highlands.

Property Involved

The property affected by this resolution is shown on the Tax Map of the Town of Highlands as parcel(s) Section 15, Block 3 Lot 3 and is located at 4 Bridge Terrace.

Zoning District

The property affected by this resolution is located in the R-1-R zoning district of the Town of Highlands.

Plans

The Site Plan materials being considered consist of the following:

1. Completed application form and Environmental Assessment Form.
2. Plans prepared for Brian Andreichuk as follows:

<i>Author</i>	<i>Title</i>	<i>Last Revision Date</i>
Charles P. Winter, Architect	Plot Plan	October 16, 2009

History

Date of Application

The application was filed with the Planning Board on October 5, 2009.

Public Hearing

A public hearing on final for Site Plan was convened on January 21, 2010 and closed on the same date.

SEQRA

Type of Action:

This matter constitutes an unlisted action under the State Environmental Quality Review Act.

Lead Agency:

The Town of Highlands Planning Board is the lead agency in regard to this action. The Planning Board's status as lead agency was established on October 15, 2009.

Declaration of Significance:

A negative declaration was issued on January 21, 2010.

GML 239 Referral

The site is within 500 feet of the Hudson River and accordingly this application was referred to the Orange County Planning Department for review in October 2009.

Findings

The Planning Board has determined that approval of this site plan for the construction of the minor addition to the single family home as sited on the lot will substantially serve the public convenience, safety and welfare in general as well as that of the proposed occupants in that the land to be developed is of such character that it can be used safely without danger to health or peril from fire, flood or other menace. Further, the relation of the project to the topography of the land, drainage, and arrangement, and the possible future development of adjacent properties are all appropriate and consistent with the requirements of the Master Plan, and the applicable zoning regulations of the Town of Highlands, subject to compliance in full with conditions hereinafter imposed pursuant to Town of Highlands Code Section 210-21(B).

Resolution of Approval

NOW, THEREFORE, THE PLANNING BOARD RESOLVES to approve the final site plan application of Brian Andreichuk and Brian Krzeminski as said proposal is depicted on the plans identified above and upon the conditions outlined below, and the Chairperson (or his designee) is authorized to sign the plans upon satisfaction of those conditions below noted to be conditions precedent to such signing.

Specific Conditions

1. The applicant shall comply with the requirements of Chapter 210 of the Code of the Town of Highlands, Zoning, at all times.
2. As a condition of this approval, the applicant shall be required to authorize town

officers, employees or agents to enter onto the site to perform appropriate inspections required by the Code.

- 3. The applicant shall pay outstanding Town of Highlands consulting fees incurred in connection with the review of the application as a condition precedent to the Chairperson or his designee signing the plans.

General Conditions

This approval is conditioned upon the applicant submitting all necessary copies of the plans to be signed, including mylars when required, to the Town of Highlands Building Department within one hundred eighty days of the date of this approval.

A full set of the plans to be signed shall simultaneously be submitted to J. Robert Folchetti & Associates. The plans shall not be signed until J. Robert Folchetti & Associates has reported to the Chair that all conditions of this resolution required to be satisfied before the plans can be signed have, in fact, been satisfied.

This approval is further conditioned upon the applicant delivering (prior to signing of the plans) proof, in writing, that all fees—engineering, planning, legal and otherwise—in regard to this project have been fully paid. The plans shall not be signed until proof, satisfactory to the Chair, has been presented showing that all such fees have been paid.

A FAILURE to comply with the general conditions immediately above in a timely manner may result in a lapsing of this approval.

In Favor 4 Against 0 Abstain 0 Absent 1

Terry Holt, Member **Absent**

John Hunter, Member **voting Aye**

Cathy Kelly, Member **voting Aye**

Christopher Dyroff, Member **voting Aye**

Erik Smith, Chairperson **voting Aye**

Dated: January 21, 2010

Erik Smith, Chairperson
TOWN OF HIGHLANDS PLANNING BOARD

STATE OF NEW YORK)
)ss:
COUNTY OF ORANGE)

I, _____, Secretary to the Planning Board of the Town of Highlands, do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the Planning Board at a meeting of said Board held on January 21, 2010.

_____, SECRETARY
TOWN OF HIGHLANDS PLANNING BOARD

I, JUNE PATTERSON, Clerk of the Town of Highlands, do hereby certify that the foregoing Resolution was filed in the Office of the Town Clerk on _____.

JUNE PATTERSON, Clerk
TOWN OF HIGHLANDS

Rockwell (Special Exception and/or Site Plan S11 B1 Lot 25, B Zone)

The Chairman stated that a reply from the County was received with no comments and it was referred to this Board for local determination. A reply was received from the Department of Transportation consenting to the Town of Highlands Planning Board as Lead Agency. They completed cursory review and agreed with the proposed subject however, detailed engineering will be required from the DOT to conclude any determination of significant impacts for their SEQRA review.

The Chairman attempted to contact the DOT to clarify that it was an existing business, and that this Board is the Lead Agency and can act on this project.

Dr. Kelly did not think there was any difficulty thus far. The Engineer’s Comment letter is in compliance for parking.

RESOLUTION OF SEQR DESIGNATION
AND DETERMINATION
NICHOLAS W. ROCKWELL AND MARIAN L. ROCKWELL
SPECIAL EXCEPTION USE PERMIT AND SITE PLAN

Planning Board Member Cathy Kelly1 presented the following resolution which was seconded by Planning Board Member John Hunter.

WHEREAS, an Environmental Assessment Form (the “EAF”) was prepared July 27, 2009, for application for a Special Exception Use Permit and Site Plan to allow for the conversion of an existing customer lounge to a café, at real property located at 1005 Route 9W, in the Town of Highlands and which is designated on the Tax Map as Section 11, Block 1 Lot 25 (the “Action”); and

WHEREAS, the Planning Board has determined that the Action is an unlisted action under Part 617 of the General Regulations adopted pursuant to Article 8 of the Environmental Conservation Law; and

WHEREAS, the Planning Board determined to conduct a coordinated review, wherein a notice of intent to declare lead agency was circulated in November 2009; and

WHEREAS, the Planning Board has heretofore designated itself lead agency on December 17, 2009; and

WHEREAS, the Planning Board has heretofore reviewed the EAF together with any other supporting information, and analyzed and considered any relevant areas of environmental concern and the probable environmental impacts of the Action to determine if the Action may have any significant adverse environmental effects.

NOW THEREFORE, BE IT RESOLVED:

1. The Planning Board does determine that the Action is an unlisted action under Part 617 of the General Regulations adopted pursuant to Article 8 of the Environmental Conservation Law and the Planning Board did conduct a coordinated review of the project.
2. The Planning Board does further determine that said Action will not have a significant adverse environmental impact and, therefore, does issue a negative declaration.
3. The Planning Board hereby authorizes the Chairman to execute and file the Environmental Assessment Form and Negative Declaration attached hereto in accordance with the applicable provisions of law.
4. The Town Clerk shall maintain the EAF, Negative Declaration and all other SEQR documents and notices pertaining to the Action on file and available to the public during regular business hours.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Terry Holt, Member

Absent

Cathy Kelly, Member

voting Aye

Christopher Dyroff, Member

voting Aye___

John Hunter, Member

voting Aye

Erik Smith, Chairperson

voting Aye

State Environmental Quality Review

NEGATIVE DECLARATION

Notice of Determination of Non-Significance

Project Number N/A

Date: January 21, 2010

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Planning Board of the Town of Highlands, as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Rockwell Cycles Café Special Exception Use Permit.

SEQR Status: Type I
Unlisted

Conditioned Negative Declaration: Yes
 No

Description of Action:

The action consists of the conversion of a customer lounge at an existing motorcycle showroom and repair shop into a Café.

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

1005 Route 9W, and designated on the Tax Map as Section 11, Block 1 Lot 25 in the Town of Highlands, Orange County, New York.

Reasons Supporting This Determination:

(See 617.7(a-c) for requirements of this determination; See 617.7(d) for Conditioned Negative Declaration)

The Planning Board has considered the action and reviewed the environmental assessment form and other supporting information. The action is an unlisted action.

None of the criteria set forth in Section 617.7 of Part 617 and any other supporting information identify relevant areas of environmental concern which would lead to a determination that the action may have a significant effect on the environment either in the short term, long term or cumulatively given the likely consequences, setting, probability of occurrence, duration, irreversibility, geographic scope or magnitude and the number of people affected. No relevant areas of environmental concern are identified.

With respect to the criteria that are considered indicators of significant effects on the environment, the lead agency has considered the following:

Impact on Land

The proposed project will result in the conversion of an existing customer lounge into a café with three to four tables. The site is located adjacent to existing residential and commercial development. The project site does not have any unique or sensitive features which could result in potentially large impacts on the physical environment. Based on the fact that the plan is in compliance with the zoning law requirements for the proposed use in the B Business Zoning District, the Planning Board accordingly finds that there are no significant unmitigated impacts on land associated with this action.

Impact on Water

It is not likely that the proposed action will have any significant effect on water quality.

Impact on Air

The action is not anticipated to have a significant impact on air quality as the structure is already built.

Impact on Plants and Animals

No significant impact on threatened or endangered species, non-threatened or non-endangered species or habitat, either riparian or on land, is anticipated as a result of the project.

Impact on Agricultural Land Resources

Agricultural activities do not take place in or around the subject site. The project area is currently zoned for business development and accordingly no significant harmful impacts are anticipated on agricultural land resources as a result of the project.

Impact on Aesthetic Resources; Visual Impacts

The Planning Board considered potential project impacts on visual and aesthetic resources, and no significant harmful impacts are anticipated on aesthetic or visual resources as a result of the project. The parcel is already developed.

Impact on Historic and Archeological Resources

No significant harmful impacts are anticipated in regard to historic or archeological resources as a result of the project.

Impact on Open Space and Recreation

The project area currently consists of an existing business premises and therefore the conversion of a portion of the premises from a lounge to a café will not impact open space or recreational facilities.

Impact on Critical Environmental Areas

The proposed project is not within a Critical Environmental Area. The parcel is already developed, and it is anticipated that the conversion to the café will have no significant harmful impacts on any Critical Environmental Area.

Impacts on Traffic and Transportation

The action involves a minor change to an existing developed parcel, and it is not anticipated that the proposed action will have any significant, unmitigated impacts on the subject area.

Impact on Energy

No significant impact would be expected in the area of energy resources as a result of the project.

Impact on Noise and Odor

The Planning Board finds that the proposed action would not create any significant noise or odor impacts.

Impact on Public Health

The Planning Board has considered site access, such that emergency vehicles can maneuver around the site adequately. No significant harmful impacts would be expected in the area of public health and safety as a result of the project.

Impact on Growth and Character of Community or Neighborhood

It is not anticipated that the conversion to a café will lead to any significant growth or subsequent development.

Any other long term, short term, cumulative, or other impacts not identified above

No additional long term, short term or cumulative or other impacts are anticipated.

In reliance upon the EAF and after a hard look at the potential impacts it indicates may be reasonably expected in comparison to the criteria set forth in the SEQR regulations, the Planning Board determines there is no indication that the action may have a significant impact on the environment.

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed, and identify comment period (not less than 30 days from date of publication in the ENB)

N/A.

For Further Information: Town of Highlands

Contact Person: Erik Smith, Planning Board Chairperson

Address: 254 Main Street,
Highland Falls, New York 10928

Telephone Number: (845) 446-4280

For Type 1 Actions and Conditioned Negative Declarations, a Copy of this Notice Must Be Sent to:

Chief Executive Officer, Town of Highlands
The Lead Agency

Other involved agencies (if any):

Any person who has requested a copy:

Applicant (if any):

A Copy of the Notice Only Must Be Sent to:

Environmental Notice Bulletin, Room 538, 50 Wolf Road, Albany, New York 12233-1750

For Unlisted Actions, a Copy of the Negative Declaration Must Only Be Sent to *The Lead Agency*

A motion was made by Mr. Dyroff and seconded by John Hunter to approve the following Special Exception Use Permit and Site Plan for this project:

NICHOLAS W. ROCKWELL AND MARIAN L. ROCKWELL

Nature of Application

Nicholas W. Rockwell and Marian L. Rockwell have applied for Special Exception Use Permit and Site Plan approval allowing a portion of their existing commercial premises to be used as a cafe.

Property Involved

The property affected by this resolution is shown on the Tax Map of the Town of Highlands as parcel(s) Section 11, Block 1 Lot 25 and is located at 1005 Route 9W.

Zoning District

The property affected by this resolution is located in the B zoning district of the Town of Highlands.

Plans

The Site Plan materials being considered consist of the following:

- 1. Completed application form and Environmental Assessment Form.
- 2. Plans prepared for Nicholas W. Rockwell and Marian L. Rockwell

as follows:

<u>Author</u>	<u>Title</u>	<u>Last Revision Date</u>
Richard A. Hetzel, Architect	Site Plan	October __, 2009

History

Date of Application

The application was filed with the Planning Board on July 2, 2009.

Public Hearing

A public hearing on final for Special Exception Use Permit and Site Plan was convened on December 17, 2009 and closed on the same date.

SEQRA

Type of Action:

This matter constitutes an unlisted action under the State Environmental Quality Review Act.

Lead Agency:

The Town of Highlands Planning Board is the lead agency in regard to this action. The Planning Board’s status as lead agency was established on December 17, 2009.

Declaration of Significance:

A negative declaration was issued on January 21, 2010.

GML 239 Referral

The site is within 500 feet of a State Highway and accordingly this application was referred to the Orange County Planning Department for review in November 2009. The Planning Department commented and recommended that the approval be a local determination on December 29, 2009.

Findings

The Planning Board has determined that approval of this special exception use permit and site plan will substantially serve the public convenience, safety and welfare in general as well as that of the proposed occupants in that the land to be developed is of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Further, the traffic access and ways are adequate in number, width, grade, alignment and visibility, adequate off-street parking is provided and the inner traffic circulation system is adequate to provide safe accessibility, the relation of the proposed building and site improvements to the topography of the land, water supply, sewage disposal, drainage, and arrangement, and the possible future development of adjacent properties are all appropriate and consistent with the requirements of the Master Plan, and the applicable zoning regulations of the Town of Highlands, subject to compliance in full with conditions hereinafter imposed pursuant to Town of Highlands Code Section 210-21(B).

Resolution of Approval

NOW, THEREFORE, THE PLANNING BOARD RESOLVES to approve the final special exception use permit and site plan application of Nicholas W. Rockwell and Marian L. Rockwell as said proposal is depicted on the plans identified above and upon the conditions outlined below, and the Chairperson (or his designee) is authorized to sign the plans upon satisfaction of those conditions below noted to be conditions precedent to such signing.

Specific Conditions

1. The applicant shall comply with the requirements of Chapter 210 of the Code of the Town of Highlands, Zoning, at all times.
2. This approval is subject to the issuance of a highway work permit or a letter of approval by the New York State Department of Transportation for the proposed highway entrance (curb cut) or a letter from that agency reporting that no such permit is required or the determination by the Planning Board Chairman that no such letter or permit will be forthcoming within a reasonable period of time.
3. This approval is subject to and conditioned upon delivery of written approval by the Orange County Department of Health related to the operations of the Cafe or a letter from that agency reporting that no such approval is required.
4. As a condition of this approval, the applicant shall be required to authorize town officers, employees or agents to enter onto the site to perform appropriate inspections required by the Code.
5. The applicant shall pay outstanding Town of Highlands consulting fees incurred

in connection with the review of the application as a condition precedent to the Chairperson or his designee signing the plans.

General Conditions

This approval is conditioned upon the applicant submitting all necessary copies of the plans to be signed, including mylars when required, to the Town of Highlands Building Department within one hundred eighty days of the date of this approval.

A full set of the plans to be signed shall simultaneously be submitted to J. Robert Folchetti & Associates. The plans shall not be signed until J. Robert Folchetti & Associates has reported to the Chair that all conditions of this resolution required to be satisfied before the plans can be signed have, in fact, been satisfied.

This approval is further conditioned upon the applicant delivering (prior to signing of the plans) proof, in writing, that all fees—engineering, planning, legal and otherwise—in regard to this project have been fully paid. The plans shall not be signed until proof, satisfactory to the Chair, has been presented showing that all such fees have been paid.

A FAILURE to comply with the general conditions immediately above in a timely manner may result in a lapsing of this approval.

In Favor 4 Against 0 Abstain 0 Absent 1

Terry Holt, Member voting Absent__

John Hunter, Member voting Aye__

Cathy Kelly, Member voting Aye__

Christopher Dyroff, Member voting Aye__

Erik Smith, Chairperson voting Aye__

Dated: January 21, 2010

Erik Smith, Chairperson
TOWN OF HIGHLANDS PLANNING BOARD

about traffic moving in and out freely. It would be his recommendation that the area be rezoned as Residential.

The Chairman, noting no objection, will send a letter to the Town Board stating this Board's recommendation for rezoning that area from Commercial to Residential. There will be a Public Hearing on this issue in February. At that time, the Town Board will entertain comments from members of this Board.

The Chairman continued with the second referral as being property located at 1158 Route 9W. This is a property that is located north of the Holiday Inn. Mr. Hager stated that it is not the area leveled in front of the Holiday Inn. It is the next lot to the north.

The Chairman explained that the Applicant has had some discussions with the Board and has asked for clarification. They are looking to set a Public Hearing for March. This Applicant would like to change the zoning from Commercial to Residential with the possibility of building rental apartments. The plan is not clear. It is the rezoning that is the issue at this time. The Chairman does not feel there is enough information to render an opinion.

Dr. Kelly explained that she was familiar with the area. She has no problem with the rezoning from Commercial to Residential. She has specific concerns about water and sewer adding more townhouses in the town.

The Chairman explained that the third referral is the proposed amendment to the R-5 Density Table. The issues are connected.

The Applicant will be making a presentation to the Town Board as to why this change is being requested.

Mr. Kelly does not know if it is in the realm of authority of this Board or that of the Town Board to discuss capacities for water and sewer. The Planning Board cannot authorize this. It would be the Town Board.

It was the consensus of the Board to have a Workshop to discuss these two referrals with the Chairman to get updates on them.

PUBLIC COMMENT

Mr. Hager discussed the use of the terminology "junk yard." He wanted the Board to know that there are specific definitions in the Codes for Abandoned Vehicle Codes. It is not fair to use that terminology for what is proposed on the lot of Applicant Lawless. Junk yards are regulated not only by the Town Zoning Code, but New York State requires licensing as well. The State recognizes and defines them specifically as any place that there are three (3) or more vehicles in a state of disrepair. Those conditions would be considered a junk yard and it would require very stringent permitting processes. Local code recognizes that certain commercial districts would have a need for abandoned vehicles. There is now a permit process that gives control to the Town to monitor those operations if the conditions are not kept in some sort of order.

Dr. Kelly has not seen the new Town Code for Abandoned Vehicles. She noted that the Board has been discussing with Mr. Lawless a screening from view procedure. He would

need to have a buffer. In earlier discussions of changing the Abandoned Vehicle law, the definition of an abandoned vehicle included something about being screened from the public. A person could have an unregistered vehicle on a property in a garage.

Mr. Hager agreed that yes, if it is contained within a structure, then it is not considered an abandoned vehicle. The language of the Code also recognizes that if it is in an approved enclosure, it would be allowed. There are ways that vehicles can be stored outside if they are in an approved structure. There is also a way to issue a permit if it is not going to be in a structure or an enclosure, but reasonably stored and there is a legitimate need for it. That permit is subject to oversight by Building Department review and the permit could be revoked. That is one of the ways the Town will control that. Mr. Lawless has filed for a permit of that nature.

Mr. Hager will bring the permit application to this Board for review because within the Code it says that if, in the Building Department's opinion, it needs assistance from the Planning Board that can be done. With this application, the Building Department will ask for this Board's input, particularly in regard to the number of vehicles to be allowed.

At 8:08 P. M., a motion was made to enter Executive Session to discuss appointments for personnel for 2010.

Motion: Dr. Kelly Seconded: Mr. Dyroff Approved

At 8:30 P. M., a motion was made to leave Executive Session.

Motion: Dr. Kelly Seconded: Mr. Hunter Approved

At 8:34 P. M., a motion was made to re-enter the Regular Meeting.

Motion: Mr. Dyroff Seconded: Mr. Hunter Approved

REORGANIZATION FOR 2010

A motion was made to make the following appointments for the Town Planning Board for 2010.

Motion: Mr. Dyroff Seconded: Mr. Hunter Approved

Meeting Time and Date The third Thursday of each month at 7:00 P. M.

**Newspaper(s) The News of the Highlands
Times Herald Record (when necessary)**

Recording Secretary Fran DeWitt

Deputy Chairperson Terry Holt

Consultants

Attorney Justin Rider of Rider, Weiner & Frankel, P.C.

Engineer

Paul Pelusio of J. Robert Folchetti & Associates

Town Planner

TBD

At 8:30 P. M., a motion was made to adjourn the meeting.

Motion: Mr. Dyroff Seconded: Dr. Kelly Approved

Respectfully submitted,

Fran DeWitt, Recording Secretary

The next Regular Planning Board Meeting is February 18, 2010.