

ACPB July 16, 2020 Meeting Minutes

NOTE: Due to issues related to Covid-19, the July 16, 2020 meeting of the ACPB was held via Skype. The public was able to call into the meeting to listen, but was not able to make comments during the meeting. There was a designated period of time prior to the meeting for written comments to be submitted.

Present: Dominic Rigosu, Acting Chairperson; Brian Crawford, Gerry Engstrom, Enzo Sofia (joined at 3:51pm), Tim Garufi, Ex Officio; Dave Reilly, Ex Officio.

Albany County Public Works Office – Gopika Muddappa, Interim Senior Planner (replacing Laura Travison who is on Maternity Leave); Lynn Delaney, Secretary; Lisa Ramundo, Commissioner, Rob Gunther, Stormwater Program Technician; Jim Mearkle, Traffic Engineer.

Minutes: Lynn Delaney, Secretary

Call to Order: Dominic Rigosu called the meeting to order at 3:38PM.

Gerry Engstrom made a motion to approve the June 18, 2020 ACPB meeting minutes. Brian Crawford seconded the motion and it was unanimously approved by the Board.

Brian Crawford made a motion to move the following Referrals to the front of the agenda and vote on them as a group: **01-200703502, 01-200703504, 04-200703505, 04-200703506, 04-200703507, 07200703514, 07-200703518, 10-200703519, 10-200703520 & 07-200703516.** All of these Referrals that have a staff opinion of Defer to Local Consideration. The motion was seconded by Gerry Engstrom and unanimously approved by the Board.

<u>Case #:</u>	<u>01-200703502</u>
Project Name:	62 Dana Ave.
Applicant:	S RE Holdings, LLC
Project Location:	62 Dana Avenue
Municipality:	City of Albany
Parcel Size:	0.04 acres
Zoning:	Townhouse (R-T)
Tax Map Number:	76.22-4-20
Referring Agency:	City of Albany Planning Board

Considerations: Conversion of a two-family townhouse to a three-family townhouse.

Action Type: **Conditional Use Permit**

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Juris. Determinant: State Road

Potential Impacts: US 20 (Madison Ave.

Staff Notes: A conditional use permit to allow an additional apartment unit in the basement of the property, new concrete stairs, and entry door into the new unit.

Staff Opinion: Defer to local consideration:

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

Case #: **01-200703504**

Project Name: **180 Sheridan**

Applicant: City of Albany Department of Planning and Development

Project Location: 180 Sheridan Ave.

Municipality: City of Albany

Parcel Size: 0.06 acres

Zoning: R-T (Townhouse)

Tax Map Number: 65.81-4-29

Referring Agency: City of Albany Legislative Board

Considerations: Amendment to the Zoning Map to change the classification of the parcel from Townhouse to Mixed-Use, Community Urban.

Action Type: **rezoning**

Juris. Determinant: State Road

Potential Impacts:

Staff Notes: The proposed zoning map amendment changes the zoning designation of a single, 0.06-acre zone lot from R-T (Townhouse) to MU-CU (Mixed-Use Community Urban).

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The zone lot is currently improved with a +/- 140 year old dwelling structure that is expected to remain, albeit accommodating a new use, as office space for a neighboring institution. No negligible environmental impacts are anticipated to result from the proposed change in zone designation. The anticipated sustainable reuse of the dwelling structure is expected to preserve the potentially significant historical and architectural resource.

Staff Opinion:

Defer to local consideration:

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

Case #:**04-200703505****Project Name:****746 River Road Fritag****Applicant:**

Tim Freitag

Project Location:

746 River Road

Municipality:

Town of Bethlehem

Parcel Size:

18.80 acres

Zoning:**Tax Map Number:**

110.00-2-13.12

Referring Agency:

Town of Bethlehem Zoning Board of Appeals

Considerations:

Area Variance to allow fence to exceed 4' in a front yard

Action Type:**Area Variance****Juris. Determinant:**

State Road

Potential Impacts:

NY 144 (River Road)

Staff Notes:

The property owner is seeking an area variance to construct an 8' tall fence in a front yard when the Town zoning code stipulates that a 4' is the maximum fence height allowed in a residential zone. The fence will not be seen from the road.

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Staff Opinion:

Defer to local consideration:

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

Case #:**04-200703506****Project Name:****Brookhill Phase 1- Lot Line Revision****Applicant:**

David Quadrini

Project Location:

Krumkill & Blessing Road

Municipality:

Town of Bethlehem

Parcel Size:

81.06 acres

Zoning:

Residential A

Tax Map Number:

63.00-3-35.1, 63.00-3-39

Referring Agency:

Town of Bethlehem Planning Board

Considerations:

Adjust the lot line to transfer 6.2+ acres to the adjoining property at 43 Blessing Road

Action Type:**Subdivision Review****Juris. Determinant:**

County Road

Potential Impacts:

Krumkill Road

Staff Notes:

The applicant, David Quadrini, proposes to transfer 6.2 acres of the existing lot (Tax Map Parcel No. 63.00-3-39) to the adjacent land owner, Francis McCloskey. The applicant's parcel is part of a previously approved subdivision known as Brookhill Estates, Phase 1. There are existing federal wetlands on the site and there will be no proposed disturbance as a result of this lot line revision. The existing parcel at 43 Blessing Road (Tax Map Parcel No. 63.00-3.35.1) is currently owned and occupied by Francis McCloskey and is used as his primary residence. The 6.2 acres being transferred to 43 Blessing Road shall provide additional privacy for the owner. A

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majority of the land being transferred is federal wetlands and there will be no proposed disturbance as part of this lot line revision.

Staff Opinion:

Defer to local consideration:

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

Case #:

04-200703507

Project Name:

National Grid Sub Station

Applicant:

National Grid

Project Location:

109 Van Dyke Road

Municipality:

Town of Bethlehem

Parcel Size:

0.78 acres

Zoning:

Residential A

Tax Map Number:

96.0-1-21

Referring Agency:

Town of Bethlehem Zoning Board of Appeals

Considerations:

Use variance to allow an electrical utility substation and an area variance for heightseveral structures to exceed max allowable height of 30'.

Action Type:

Use Variance and Area Variance

Juris. Determinant:

State Road

Potential Impacts:

NYS Designated Agricultural District

Staff Notes:

National Grid is seeking a use variance to allow an electrical utility substation and an area variance for height-several structures to exceed max allowable height of 30'. The use variance will be measured against the test for public utilities submitted. In 2014 the ACPB reviewed this parcel and ACPB deferred to local consideration on 11/20/14. National Grid's proposed siting of the Van Dyke Road electric substation is a necessary and appropriate measure to continue the provision of safe and adequate service to Town of Bethlehem residents and businesses, while simultaneously

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extending electric power to areas within the Town that are newly primed for development (e.g., the Vista Tech Park). The substation will not change the neighborhood character, as it will be located immediately adjacent to a longstanding electric transmission corridor, on property that National Grid has owned since the 1960s expressly for such purposes activity surrounding a large portion of the station will continue as before. Incorporating the results of a Visual Impact Assessment (VIA) prepared for this project (see Exhibit E), the station's visual appearance will be substantially mitigated through several measures: designing a 500+ foot setback from the public road; nestling the station against a backdrop of tall trees so as to screen close views and eliminate views from more than 3/4 mile away; minimizing the length of tap lines into the station; and utilizing underground duct banks under and along Van Dyke Road to conduct electricity from the station to existing above ground distribution facilities on Delaware Avenue.

Staff Opinion:

Defer to local consideration:

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

There was a discussion from Board members as to whether this had been pulled from the agenda. Though the Board believed that this project was no longer being considered by the Town, the ACPB has not received a request from Town of Bethlehem to pull it from our July agenda. Because of this, it was determined that the Board would still vote on the Referral.

<u>Case #:</u>	<u>07-200703514</u>
Project Name:	FW Webb Company Warehouse modification
Applicant:	FW Webb Company
Project Location:	35 Railroad Ave.
Municipality:	Town of Colonie
Parcel Size:	2.40 acres
Zoning:	Industrial (IND)
Tax Map Number:	53.10-1-2.2

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Referring Agency:	Town of Colonie Planning Board
Considerations:	Site plan review for modification to the site to accommodate an outdoor fenced in storage area, parking lot modifications, and customer entrance modifications.
Action Type:	Site Plan Review
Juris. Determinant:	municipal boundary
Potential Impacts:	Town of Guilderland and Town of Colonie intermunicipal boundary
Staff Notes:	The site has an existing 14,043 SF office/warehouse/distribution building. The property owner is proposing to modify existing parking spaces, fenced in outdoor storage area and customer entrance onsite to accommodate the needs of the wholesale and storage of the operation. The use of the existing building will remain the same including storage of the merchandise, wholesale, and employee sales team. After alteration the pavement will increase from 46,087 SF to 50,166 SF (44.7%-48.5%) of the site. Greenspace will decrease respectively and the building size will stay the same. Stormwater runoff from the parking or expansion will be controlled by onsite infiltration within the existing stormwater retention basins. These site modifications will not impact the Town of Colonie's water or a sanitary sewer system. Approximately .2 acres will be disturbed by this project modifications.
Staff Opinion:	Defer to local consideration: 1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.
<u>Case #:</u>	<u>07-200703518</u>
Project Name:	New Scotland Laundromat
Applicant:	Alosar Bhatti
Project Location:	215 Troy Schenectady Road
Municipality:	Town of Colonie
Parcel Size:	0.60 acres
Zoning:	Commercial Office Retail (COR)

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Tax Map Number: 31.8-5-18

Referring Agency: Town of Colonie Zoning Board of Appeals

Considerations: Area Variance for 5' relief of the 25' setback requirement from the boundary line of an existing single family use.

Action Type: **Area Variance**

Juris. Determinant: State Road

Potential Impacts: NY 2 (Troy Schenectady Road)

Staff Notes: The existing building was formerly a Stewart's. The property owner is seeking to change the use to a laundromat. The building has a side yard setback of 20' of the boundary line of an existing single family use. In the COR zone, a 25' side yard setback is required for laundromat's adjacent to a single family zone.

Staff Opinion: Defer to local consideration:

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

Case #: **10-200703519**

Project Name: **Car Wash Site Plan Amendment**

Applicant: Richard Hameroff

Project Location: 2123 Western Avenue

Municipality: Town of Guilderland

Parcel Size: 3.20 acres

Zoning: GB

Tax Map Number: 51.02-1-20

Referring Agency: Town of Guilderland Zoning Board of Appeals

Considerations: Addition of 435sf of office space on a second floor with an exterior egress stairway.

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Action Type:	Special Use Permit
Juris. Determinant:	State Road
Potential Impacts:	US 20 (Madison Ave.)
Staff Notes:	Special use permit to allow an existing site plan to be amended to add an exterior staircase to a second floor office space at a car wash under construction.
Staff Opinion:	Defer to local consideration: 1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.
Advisory Note:	
<u>Case #:</u>	<u>10-200703520</u>
Project Name:	Colonial Carwash
Applicant:	Ray Sign Inc.
Project Location:	1769 Western Ave.
Municipality:	Town of Guilderland
Parcel Size:	0.66 acres
Zoning:	LB
Tax Map Number:	52.09-4-12.2
Referring Agency:	Town of Guilderland Zoning Board of Appeals
Considerations:	An area variance to enable the replacement of existing sign with an 86SF sign.
Action Type:	Area Variance
Juris. Determinant:	State Road
Potential Impacts:	NY 20 (Western Ave)

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Staff Notes: Colonial car wash is seeking an area variance to replace their free standing sign with a new 86.28 SF sign, which is in excess of the 50 SF sign maximum.

Staff Opinion: Defer to local consideration:

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

Advisory Note: 1. The Town Zoning Board should consider the precedent setting nature of allowing significant area variances to the sign code in the commercial zone.

Case #: **07-200703516**

Project Name: **Stewart's 2005 Central Ave.**

Applicant: Stewart's Shops Inc.

Project Location: 2005 Central Ave.

Municipality: Town of Colonie

Parcel Size: 0.36 acres

Zoning: Commercial Office Retail (COR)

Tax Map Number: 17.17-4-46, 17.17-4-24, 17.17-4-25, 17.17-4-45

Referring Agency: Town of Colonie Zoning Board of Appeals

Considerations: An area variance and special use permit to enable the construction of a new 3,996 SF Stewart's.

Action Type: **Area Variance, Special Use Permit**

Juris. Determinant: State Road

Potential Impacts: NY 5 (Central Ave.)

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Staff Notes:

Pending approval of area variances and a special use permit, Stewart's is seeking to construct a new 3,996 SF convenience store and fuel pumps. Stewart's is looking to raise all existing structures on four parcels (1, 3, 7 Emery Ave., 7 Waterman Ave.). The company is also seeking to subdivide 7 Emery into two lots, and combine part of it with the remaining for lots into one parcel. Stewart's is requesting an area variance to enable this subdivision and combination of parcels because the proposed construction of a mini-mart and fuel pump station in a COR zone on a parcel with 3 front yards and 1 side yard does not permit accessory structures in the front yard. The mini-mart has 15' from the side yard and the dumpster enclosure has 16' where 25' total is required, and both structures are within 25' from an existing single family residence. Total area expected to be disturbed is 1.2. Acres. Furthermore special use permit is required and the remaining part of the subdivided 7 Emery Ave. does not meet the required 20,000 SF lot area minimum for the COR zone.

Staff Opinion:

Defer to local consideration:

This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

Without any comments or questions from the Board, Brian Crawford made a motion to accept the staff opinion for Referral #'s 01-200703502, 01-200703504, 04-200703505, 04-200703506, 04-200703507, Without any comments or questions from the Board, Brian Crawford made a motion to accept the staff opinion for Referral #'s **01-200703502, 01-200703504, 04-200703505, 04-200703506, 04-200703507, 07-200703514, 07-200703518, 10-200703519, 10-200703520 & 07-200703516**. The motion was seconded by Gerry Engstrom and unanimously approved by the Board.

Case #:

04-200703508

Project Name:

Weisheit Engine Works

Applicant:

Robert Pauly

Project Location:

584-586 Route 9W

Municipality:

Town of Bethlehem

Parcel Size:

2.50 acres

Zoning:

Mixed Economic Development

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Tax Map Number: 97.00-2-9

Referring Agency: Town of Bethlehem Zoning
Board of Appeals

Considerations: Use Variance - Change of tenancy from Cosmic Guns
to Weisheit Engine Works

Action Type: Use Variance

Juris. Determinant: State Road

Potential Impacts: 9W

Staff Notes: The parcel is currently legally non-conforming. The property owner is seeking to rent to parcel to new tenants and transfer the legal non-conforming use to them.

Staff Opinion: Disapprove.

1. Before a ZBA can grant a use variance, state law requires that the applicant must demonstrate “unnecessary hardship.” Mere inconvenience and the fact that the land in question could be put to a more profitable use are insufficient reasons for granting a variance. The applicant should include an explanation that justifies the need for a variance with criteria set for in state statute.
2. Legal non-conforming uses cannot transfer their status to different legal nonconforming use.

Advisory Note: 1. If permitted, the perpendicular parking on US 9W should be relocated. Refer to NYSDOT for a Highway Work Permit.

James Mearkle, Albany County Traffic Engineer mentioned that if there is a change of use for the property, access should be referred to DOT for a permit to remove the perpendicular parking. This was added as an Advisory (noted above).

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With no further comments or questions from the Board, Brian Crawford made a motion to accept the staff opinion for Referral #04-200703508. The motion was seconded by Gerry Engstrom and unanimously approved by the Board.

Case #: 01-200703503

Project Name: ZTA 0012

Applicant: Chief Planning Official, City
of Albany Department of
Planning and Development

Project Location: n/a

Municipality: City of Albany

Parcel Size: 0.00

Zoning: n/a

Tax Map n/a

Number:

Referring City of Albany Legislative
Agency: Board

Considerations: Amendment to the Unified
Sustainable Development
Ordinance (USDO) to change
parking lots from an
accessory to a conditional use
in the MU-CU district, along
with the addition of
corresponding use-specific
standards.

Action Type: Amendment of Zoning Law

Juris. Amendment of Zoning Law

Determinant:

Potential parking policy within the
Impacts: code

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Staff Notes: Amendment to the Unified Sustainable Development Ordinance (USDO) to change parking lots from an accessory to a conditional use in the MU-CU district, along with the addition of corresponding use-specific standards. The amendment also corrects inconsistencies between the parking alternative allowances and the permitted use table.

Staff Opinion: Modify local approval to include:

1. A notification of the changes to the ordinance should be sent to all adjacent municipalities.

Without any comments or questions from the Board, Gerry Engstrom made a motion to accept the staff opinion for Referral **#01-200703503**. The motion was seconded by Brian Crawford and unanimously approved by the Board.

<u>Case #:</u>	<u>05-200703509</u>
Project Name:	Amendment to Town of Coeymans' Zoning Code Chapter 165
Applicant:	Town of Coeymans
Project Location:	n/a
Municipality:	Town of Coeymans
Parcel Size:	0.00
Zoning:	n/a
Tax Map Number:	n/a
Referring Agency:	Town of Coeymans Planning Board / Zoning Board of Appeals

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Considerations:	Amendment to the Town Code Chapter 165, Zoning Code, Section 165-3 "Definitions".
Action Type:	Amendment of Zoning Law
Juris. Determinant:	Amendment of Zoning Law
Potential Impacts:	Town waste management policy
Staff Notes:	Ask John Cashin to send you the actually amended text. Not included in referral.
Staff Opinion:	Modify local approval to include: 1. A notification of the changes to the ordinance should be sent to all adjacent municipalities.

Without any comments or questions from the Board, Brian Crawford made a motion to accept the Staff Opinion for Referral #**05-200703509**. The motion was seconded by Gerry Engstrom and unanimously approved by the Board.

<u>Case #:</u>	<u>05-200703510</u>
Project Name:	Palange Minor Subdivision
Applicant:	Malgor Zata Palange
Project Location:	508 Biers Road
Municipality:	Town of Coeymans
Parcel Size:	154.20 acres
Zoning:	Residential Agriculture (RA)
Tax Map Number:	131.-3-5.21
Referring Agency:	Town of Coeymans Planning Board / ZBA

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Considerations:	Three lot subdivision resulting in a 7.6 acre lot, an 11.6 acre lot, and a 135 acre lot.
Action Type:	Subdivision Review
Juris. Determinant:	Farm in a NYS designated agricultural district, County Road, municipal boundary
Potential Impacts:	CR 301 (Cedar Hill Road), CR 108 (Copeland Hill Road), wetlands, Town of Coeymans and Town of New Scotland intermunicipal boundary, NYS designated agricultural district
Staff Notes:	Property owner seeks to subdivide parcel into three lots. Lot 1 would be 7.6 acres Lot 2 would be 11.6 acres, and Lot 3 would be 135 acres. Lot 1 and 2 have existing structures on them. The lots follow county and town roads as parcel boundaries.
Staff Opinion:	Modify local approval to include: 1. Notification of the application should be sent to the Town of New Scotland, including all required notices pursuant to GML §239-nn. 2. The Town should make sure the property owner is aware that any future driveway construction, drainage and public utility connections within the county right of way will require a highway work permit from the Albany County Department of Public Works. 3. The Town should make sure the property owner is aware that the location of new wells and septic should be evaluated by Albany County Department of Health as part of the subdivision of the land. 4. Any wetlands disturbance will require notification to and review by the U.S. Army Corps of Engineers for permits under Section 404 of the Clean Water Act.

Without any questions or comments from the Board, Gerry Engstrom made a motion to accept the staff opinion for Referral #**05-200703510**. The motion was seconded by Brian Crawford and unanimously approved by the Board.

<u>Case #:</u>	<u>06-200703511</u>
Project Name:	15 St. Agnes Highway - Contractors Yard
Applicant:	Syracuse Utilities, Inc.
Project Location:	15 St. Agnes Highway
Municipality:	City of Cohoes

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Parcel Size: 3.80 acres
Zoning: Residential (R-1)
Tax Map Number: 10.17-1-4.10
Referring Agency: City of Cohoes Zoning Board of Appeals

Considerations: A use variance to enable purchaser to maintain a contractor's garage as is. Parcel has been re-zoned and the former use is no longer conforming.

Action Type: Use Variance

Juris. Determinant: Municipal Boundary

Potential Impacts: Town of Colonie and City of Cohoes intermunicipal boundary

Staff Notes: The property owner is requesting a use variance from R-2 (Residential) to 1-I (Industrial) to enable the existing structure to be used as is. The facility currently is used for storage of trucks, equipment, and materials. The applicant is proposing to purchase the parcel and operate the facility as a contractor's yard. This requires a use variance because a legal non-conforming use requires the property not remain vacant. The ACPB recently reviewed this use variance in April 2020 (referral # 03-200403453). The ACPB recommended that the City of Cohoes modify local approval to include: 1. Notification of the application should be sent to the Town of Colonie, including all required notices pursuant to GML §239-nn. 2. Before a ZBA can grant a use variance, state law requires that the applicant must demonstrate "unnecessary hardship." Mere inconvenience and the fact that the land in question could be put to a more profitable use are insufficient reasons for granting a variance. The applicant should include an explanation that justifies the need for a variance with criteria set for in state statute.

Staff Opinion: Modify local approval to include:

1. Notification of the application should be sent to the Town of Colonie, including all required notices pursuant to GML §239-nn.
2. Before a ZBA can grant a use variance, state law requires that the applicant must demonstrate "unnecessary hardship." Mere inconvenience and the fact that the land in question could be put to a more profitable use are insufficient reasons for granting a variance. The applicant should include an explanation that justifies the need for a variance with criteria set for in state statute.

Advisory Note:

1. The City of Cohoes has asked the Albany County Planning Board to clarify its original recommendation and re-review the hardship standard in State Statue now that the referral has added context for the applicants request for the use variance.

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2. The City of Cohoes Planning Board should assess the use variance with criteria set in State Statue: (a) the land in question cannot yield a reasonable return if used only for a purpose allowed in that zone; (b) that the plight of the owner is due to unique circumstances and not to the general conditions in the neighborhood which may reflect the unreasonableness of the zoning ordinance itself; AND (c) that the use to be authorized by the variance will not alter the essential character of the locality.
3. There are two, somewhat paradoxical, precedents in evaluating a valid nonconforming use. One is that maintaining profit does not qualify as an unnecessary hardship. This is especially true with a legal non-conforming use during a sale: "At this point, it would be good to mention briefly a property use that is especially hard hit by the reasonable return requirement. That is a nonconforming use, upon which an especially heavy burden falls when it must be shown that the user cannot derive a reasonable return from ANY permitted use." (NYS DOS Zoning Board of Appeals Law). The standard of reasonable return is applied to the owner, not contracted buyer (therefore the contracted buyer's ability to realize a return is not included in the assessment), and reasonable can mean some return, not maximum return. The other precedent is that a variance "runs with the land". Meaning that a previous non-conforming use can transfer with a sale, if the above criteria is still met. Specifically the City of Cohoes Zoning Code (§ 285-75) establishes the loss of a grandfather clause after 1 year of discontinued use. Therefore if the property seller can establish continuous use from the time the nonconforming use was grandfathered in, up until today, with less than a year of interruption at any time, it may be possible for the ZBA to allow the nonconforming use to continue.
4. This same section of Cohoes Code also states the no legal non-conforming building, besides a single and multi family residence, can be expanded.
5. It is the prerogative of a localities ZBA to administer these balancing test. Ostensibly the point of a zone is to minimize nonconforming uses, but a local ZBA is allowed to render relief to applicants in unique circumstances.

The Board had a discussion about the fact that the ACPB had reviewed this once before and the City of Cohoes resubmitted asking the Board to review the hardship. The Board felt that it isn't the role of the ACPB to make that determination. It is up to the local municipality to do that and the ACPB simply pointed out the State statute and outlined what the proper steps are. This response has simply provided a lengthier explanation.

Without any further questions or comments, Brian Crawford made a motion to accept the Staff Opinion for Referral #06-200703511. The motion was seconded by Gerry Engstrom and unanimously approved by the Board.

Case #:	<u>07-200703512</u>
Project Name:	Crisafulli Senior Living PDO
Applicant:	Crisafulli Associates LLC

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Project Location:	28 Everett Road
Municipality:	Town of Colonie
Parcel Size:	1.50 acres
Zoning:	Neighborhood Community Office Retail (NCOR)
Tax Map Number:	54.13-1-1, 54.13-1-12, 54.13-1-11
Referring Agency:	Town of Colonie Planning Board
Considerations:	Three lots (28 Everett Rd. Ext., 11 & 12 Duffy St.) to be merged and rezoned as a Planned Development District (PDD) to enable the construction of a new 4-story 49,400 SF senior living building.
Action Type:	rezoning
Juris. Determinant:	County Road, municipal boundary
Potential Impacts:	CR (155 Everett Rd Ext.), wetlands, City of Albany and Town of Colonie intermunicipal boundary.
Staff Notes:	The property owner is seeking to merge three lots (28 Everett Rd. Ext., 11 & 12 Duffy St.) and rezone the new parcel as a Planned Development District (PDD) to enable the construction of a new 4-story 49,400 SF senior living building. Access is proposed through the adjoining American Legion Joseph E. Zaloga Post 1520 east of the existing driveway (which will be abandoned) and a second access by way of Duffy St. The new building will accommodate 153 independent living apartments for individuals or couples older than 55. Sixty garages with 179 parking spaces, 12 of which will be ADA accessible) and 36 banked spot are proposed. This is less than the 2 parking spaces per unit required Town code in multi-family zones, but the developer think the 1.57 spaces per unit is appropriate in Senior Adult Housing. Total amount of buildings and impervious surface will be 1.8 acres and green space will be 5.8 acres. Total acreage expected to be disturbed is 5.56 acres. The property owner proposed to install an 8" public water main from Everett Road through the site to Duffy St. and along Duffy St. to Exchange St. which would allow hydrants to be placed on site. A proposed sewer lateral will be connected to the existing sewer on Duffy St. There are wetlands and flooding zones due to a riverine running along Sand Creek Road. Town Code requires PDDs to produce a public benefit as one of the requirements for the overlay to exist. The property owner acknowledges the neighboring properties that have expressed their desire that something be done to better control flooding in the vicinity of the project and plans to make a contribution to the Town by integrating substantial flood control in the area. The area is currently zoned Neighborhood, Commercial, Office, and Retail (NCOR) and has higher density allowances than those proposed in this PDD. This is not currently yet a site plan review.

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Staff Opinion:

Modify local approval to include:

1. A Notice of Intent filed with the New York State Department of Environmental Conservation affirming that a Stormwater Pollution Prevention Plan has been prepared and is being implemented, or submission of a Stormwater Pollution Prevention Plan (SWPPP) that is consistent with the requirements included in the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges (GP-0-15-003, May 1, 2015) for construction activities that disturb more than one acre of land.
2. Albany County Highway Work Permit will be required

Dominic Rigosu mentioned that when we saw this before, it was for proposed medical buildings however it is now for a proposed Senior Living Community which would have much lower traffic flow. There was a discussion of the access to Everett Road (shared driveway) and a secondary /entrance exit onto Exchange St. where there is a traffic light.

Brian Crawford confirms that this is something that we will see again because we are here just for the rezoning.

Brian Crawford asked Jim Mearkle if he had any comments on the access. Jim stated that he feels that it is probably as good as it is going to get. They confirmed that the access on Everett Road will be combining 2 driveways into one. So a right turn in and a right and left turn out. The staff are reviewing some of the plans for the access on the plans.

They will have to submit for a Site Plan Review at a later date so the Board will be reviewing this in more detail.

Without any further comments or questions, Gerry Engstrom made a motion to accept the Staff Opinion for Referral #07-200703512. The motion was seconded by Brian Crawford and unanimously approved by the Board.

Case #:

07-200703513

Project Name:

Cultural Community Center Food Service

Applicant:

Kevin Roe

Project Location:

430 New Karner Rd

Municipality:

Town of Colonie

Parcel Size:

2.21 acres

Zoning:

Mixed Use Office Retail (OR)

Tax Map Number:

29.7-2-2

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Referring Agency: Town of Colonie Zoning Board of Appeals

Considerations: Area Variance to operate a restaurant within 100' of a single family residential zone.

Action Type: **Area Variance**

Juris. Determinant: County Road

Potential Impacts: CR 157 (New Karner Road)

Staff Notes: The Capital District Celtic Cultural Association rents their kitchen to a caterer and food service company that has operated out of the Hall's kitchen since September 2019. The Hall is classified as a community center. Town of Colonie Land Use Law, Article VI, Section 190-6 allows community centers to allow food service as an accessory use. The catering company provides food service to the Hall and catering services to groups that rent the Hall. Most service operates on Friday and Sunday when the Hall provides a Bingo night. Since mid-March, the Hall has been closed due to COVID-19 regulations. The catering company would like to provide take-out and delivery targeted at the Hall members who have developed a loyalty to their cooking. With the Hall still closed, the use being labeled as "accessory" has come into question and the Hall is seeking relief from the setback requirement that no restaurant be located within 100' of a single family residence zone. There is no proposed change in parking, egress/ingress or traffic. County Senior Planner, Laura Trivison, discloses she is a member of the Hall.

Staff Opinion: Modify local approval to include:

1. Review by the Albany County Department of Health for food service and other required permits.

Dominic asked to review the Site Plan but Jim commented that there may not be one because they are not changing anything. It is an existing building with an existing kitchen. There was an old Site Plan in the file to review and a brief discussion.

Without any further questions or concerns from the Board, Gerry Engstrom made a motion to accept the Staff Opinion for Referral # **07-200703513**. The motion was seconded by Brian Crawford and unanimously approved by the Board.

Case #: **07-200703515**

Project Name: **Millview Extended Care Facility**

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Applicant: Millview of Latham Realty Holding Co., LLC
Project Location: 514 Old Loudon Road
Municipality: Town of Colonie
Parcel Size: 7.73 acres
Zoning: Single Family Residence (SFR)
Tax Map Number: 4.4-3-22
Referring Agency: Town of Colonie Planning Board

Considerations: Construction of a new one-story 18,720 SF extended care facility.

Action Type: **Site Plan Review**

Juris. Determinant: State Road

Potential Impacts: NY 9 (Loudon Rd)

Staff Notes: The site plan includes construction of a new one-story 18,720 SF extended care building with associated parking, access and circulation drives. Water and sewer utilities exist along the Old Loudon Road frontage. Additional Stormwater catch basins are proposed. The use variance for this site plan was secured in June 2019. The new building will be able to accommodate 50 beds along with a parking area and associated sidewalks and utility extensions. The proposed building will be located towards the rear of the parcel where the parcel increases in width and can accommodate the construction of the new building. A parking area is proposed on the southerly side of the building with a new driveway that will connect to the existing driveway that provides access to the parcel from Old Loudon Road. An additional 22 parking spaces will be added to the existing 38 parking spaces. There will be 5 ADA accessible spaces. The existing on-site utilities will be extended to provide the building with municipal sanitary sewer and water service. Stormwater runoff will be directed to new catch basins and connect to the existing closed drainage system which discharges into the existing detention basin located at the rear of the site. The total area of expected disturbance will be 1.69 acres. The Town has given a preliminary review and developer responses were included in the referral.

Staff Opinion: Modify local approval to include:

1. A Notice of Intent filed with the New York State Department of Environmental Conservation affirming that a Stormwater Pollution Prevention Plan has been prepared and is being implemented, or submission of a Stormwater Pollution Prevention Plan (SWPPP) that is consistent with the requirements included in

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the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges (GP-0-15-003, May 1, 2015) for construction activities that disturb more than one acre of land.

Without any questions or comments from the Board, Brian Crawford made a motion to accept the Staff Opinion for Referral # **07-200703515**. The motion was seconded by Enzo Sofia and unanimously approved by the Board.

Case #: **07-200703517**
Project Name: **Capital BOCES**

Applicant: Rosetti Acquisitions
Project Location: 925 Watervliet Shaker Road
Municipality: Town of Colonie
Parcel Size: 38.66 acres
Zoning: CO
Tax Map Number: 30.-2-2.4
Referring Agency: Town of Colonie Planning Board

Considerations: Three lot subdivision and the construction of two new buildings.

Action Type: **Site Plan Review**

Juris. Determinant: County Road, government facility, agricultural district
Potential Impacts: CR 155 (Watervliet Shaker Rd.)

Staff Opinion: Modify local approval to include:

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1. Two copies of FAA's Obstruction Evaluation / Airport Airspace form 7460-1 shall be filled out and submitted – one for the permanent structure, and one for cranes, etc. used during construction
2. An Albany County Highway Work Permit will be required
3. Minor widening will be required to provide an eastbound left turn lane
4. The westerly driveway should be right turns onto CR 157 only
5. Review by the local Fire Department for fire apparatus access road in accordance with appendix D of the New York State building code.
6. The proposed project will need to address and coordinate storm water design with the county Department of Public Works.

Brian Crawford asked if the ACPB should have a better description about the project written because it is a sizeable project. Rob reviewed some of the information given: it is 2 Buildings totally 206,000 SF; 509 shared parking spaces; 1st building is proposed to be a 165,000 SF replacement and expansion of BOCES Career and Technical Education Center. The Second building is proposed to be a 41,000 SF replacement of BOCES existing Maywood Special Education School.

The Board discussed traffic impacts and the possibility of putting a traffic light there. Town of Colonie is looking at options to possibly reroute some things so they don't have to add a 3rd light within a couple thousand feet. Jim Mearkle commented that though this is only showing 2 buildings, there is plenty of room for additional buildings in the front.

Rob stated that this is Phase 1 so they are only discussing these two buildings in the back of the lot but that in future phases, there will be further development on the property. He reiterated that these buildings will be housing existing programs.

Jim Mearkle has looked at this and a traffic study indicates that a traffic light is warranted but there is still room for engineering judgement.

The Board also discussed the hours that traffic would primarily be impacted by both BOCES and CBA as well as the traffic on Watervliet-Shaker Road in general.

The Board then decided to add a requirement to have a review of access by the local Fire Dept. (noted above).

****At this point the Wi-Fi connection was lost for approx. 3 minutes. It was recognized almost immediately and the meeting was stopped until it was confirmed that everyone was back online.**

Dominic picked up where the Board left off discussing the addition of Fire Dept. access review. The change is noted above as modification #5.

Rob Gunther then addressed some stormwater concerns related to the driveway and the basins. There is about 40 feet of roadway that is being constructed for the development of this parcel that is unaccounted for in stormwater runoff because it is being developed and built inside of the County right of way. He referred to the Site Plan (C-1) to point out the 40 feet of roadway that isn't accounted could potentially have water runoff on the County Road.

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There has been a history of groundwater flooding on the roadway in this area (further down toward Airline Drive), in the winter when the ground freezes. DPW has to have road crews repeatedly scrape & treat the icy areas. He goes on to state that there are some interesting water table characteristics in this area.

The Board discussed adding a modification to ensure that any stormwater design would be coordinated with the Albany County Public Works office. This is noted above as modification #6.

Without any further comments or questions from the Board and with the additional modifications added, Brian Crawford made a motion to accept the Staff Opinion for Referral **#07-200703517**. Gerry Engstrom seconded the motion and it was unanimously approved by the Board.

Case #: **10-200703521**

Project Name: **Metro Mover**

Applicant: Rick Ramsey, RJR Units LLC.

Project Location: 4773 Western Turnpike

Municipality: Town of Guilderland

Parcel Size: 10.60 acres

Zoning: Industrial (IN)

Tax Map Number: 26.00-3-36.1

Referring Agency: Town of Guilderland Zoning Board of Appeals

Considerations: Special use permit to enable the expansion of an existing self-storage facility.

Action Type: **Special Use Permit**

Juris. Determinant: State Road

Potential Impacts: NY 20 (Western Turnpike)

Staff Notes: The property owner is seeking a special use permit to enable the construction of two 10,075 SF climate controlled indoor self-storage buildings, one 4, 650 Sf non-climate controlled indoor self-storage building a two RV storage canopies with a total of 33 stalls. Construction will take place at the rear of the existing self-storage facility.

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Staff Opinion:

Modify local approval to include:

1. A Notice of Intent filed with the New York State Department of Environmental Conservation affirming that a Storm water Pollution Prevention Plan has been prepared and is being implemented, or submission of a Storm water Pollution Prevention Plan (SWPPP) that is consistent with the requirements including New York Department of Environment of Conservation SPDES General Permit for Stormwater Discharge(GP-0-15003,May 1,2015) for construction activities that disturb more than one acre of land.
2. Any wetlands disturbance will require notification to and review by the U.S. Army Corps of Engineers for permits under Section 404 of the Clean Water Act.

Without any comments or questions from the Board, Gerry Engstrom made a motion to accept the Staff Opinion for Referral #**10-200703521**. The motion was seconded by Brian Crawford and unanimously approved by the Board.

Case #: **15-200703522**

Project Name: **Kathryn Sikule Special Use Permit**

Applicant: Kathryn Sikule

Project Location: 26 Fox Creek

Municipality: Town of Rensselaerville

Parcel Size: 101.20 acres

Zoning: Agriculture Hamlet

Tax Map Number: 173.-1-28

Referring Agency: Town of Rensselaerville
Planning Board

Considerations: Special use permit to enable the property owner to use existing barns as retreat, presentation, workshop and reception venues for small groups of people.

Action Type: **Special Use Permit**

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Juris. Determinant: County Road

Potential Impacts: CR 351 (Fox Creek Road), wetlands

Staff Notes: The property owner is seeking a special use permit to enable the property owner to use existing barns as retreat, presentation, workshop and reception venues for small groups of people. The business would operate from May to October.

Staff Opinion: Modify local approval to include:

1. Approving the special use permit should be conditioned on the owner improving access for the proposed light commercial use.
2. A highway work permit from the Albany County Department of Public Works for any driveway construction, drainage and public utility connections within the county right of way is required.

Advisory Note: While this is not yet a site plan review, the Town should condition approval of the special use permit on the existing access being approved. It should be improved for the proposed light commercial use. Specifically:

1. To prevent damage to the edge of pavement and tracking soil onto the road during wet weather, providing a paved apron within the ROW.
2. The driveway should be wide enough for two-way traffic and a fire apparatus
3. May need to be moved west to improve sight distance around the barn
4. Comments 2 and 3 may require extending the culvert
5. A County Highway Work Permit will be needed
6. Review by local Fire Department for comments and access to the site

The Board discussed adding an advisory regarding review by the local Fire Dept. (noted above). Without any further questions or comments from the Board, Brian Crawford made a motion to accept the Staff Opinion for Referral #15-200703522. The motion was seconded by Gerry Engstrom and unanimously approved by the Board.

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Case #: **05-200703512**

Project Name: **WM Biers Site Plan / Coeymans Industrial Park**

Applicant: William Biers

Project Location: 2029 River Rd

Municipality: Town of Coeymans

Parcel Size: 70.10 acres

Zoning: Industrial (I)

Tax Map Number: 156.-4-8.2

Referring Agency: Town of Coeymans Planning Board / Zoning Board of Appeals

Considerations: Site plan review that includes an area for material processing and laydown, multiple warehouses, office building, and a transfer station

Action Type: **site plan review**

Juris. Determinant: State Road

Potential Impacts: NY 144 (River Road), Coeymans Creek, wetlands, floodplains,

Staff Notes: The property owner proposes to place fill for the purpose of flattening existing slopes to allow for material processing and laydown areas as well as constructing multiple warehouses along the northerly 35 acer portion of the 70 acre site. A proposed maintenance / office building will be for the Wm Biers, Inc. company as well as C&D transfer station. The site plan with added warehouse and other building is an amendment to a previously approved special use permit on September 4, 2018 and site plan that was approved on August 1, 2016. This was reviewed last month by the ACPB (referral # 05-200603491) and disapproved based on insufficient review material. It is resubmitted this month with more review material

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Staff Opinion:

Albany County recommendation is disapproval and resubmit

1. The Albany County Planning Board found the referral material unacceptable for review purposes.
2. Insufficient construction documents were provided.

Advisory Note:

1. The ACPB did not receive the updated SWPPP for a very substantial (35 acres) project near the Coeymans Creek /floodplain and a NYS Highway. There was also a lack of explanation of existing conditions, infiltration basins, truck traffic details, etc. Staff could not rely on previous submittals. All previous submittals are void due to the fact the nature of operations with this new application has significantly changed. A proposed a C/D transfer station is a new application in an area that was originally not going to be disturbed.
2. A geotechnical report for existing soil and new fill proposed to go in should be included in the application

Dominic reminded the Board that we looked at this last month and it was disapproved because the Board felt that we were not given an adequate amount of information for the size of the project.

Parcel size is 70 acres but the areas of disturbance is 35 Acres and there are 5 buildings being proposed.

Dominic reviewed the Board response to the June Referral which was disapproved. The Boards response of Disapprove at the June 2020 meeting included the following:

Disapprove.

1. *The Albany County Planning Board found the referral material unacceptable for review purposes.*
2. *Pages 2, 4, 6, 8, 10 and 12 are missing from the EAF and depth to water table (E2 D) is missing from the EAF and should be provided.*
3. *Insufficient construction documents were provided.*

Advisory Note: 1. The ACPB did not receive an updated narrative, nor and updated SWPPP for a very substantial (35 acres) project near the Coeymans Creek /floodplain and a NY Highway. There was also a lack of explanation of existing conditions, infiltration basins, truck traffic details, etc. Staff could not rely on previous submittals. All previous submittals are void due to the fact the nature of operations with this new application has significantly changed. A proposed a C/D transfer station in the new application in an area that was originally not going to be disturbed. 2. A geotechnical report for existing soil and new fill proposed to go in should be included.

Rob Gunther stated that we received a response letter from Anthony Pasquini, Environmental Specialist with Ingalls & Associates, LLP to address some of the concerns that the Board had. Rob read the response that we received regarding Comment #3:

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Comment 3. Insufficient construction documents were provided. **Response:** An updated construction SWPPP is currently being completed for the proposed project and is anticipated to be complete shortly. This is a construction level document and will be completed and NOI filed prior to soil disturbance associated with the project. Similarly, detailed building construction drawings will be required prior to issuance of Building Permits.

After reading the comments, Rob then explained in more detail what we still need to be able to move forward.

"In terms of Site Plans we need to see Stormwater Retention pond details. These are typically include in a site plan packet as a detail sheet. So they are putting in stormwater retention on top of introduced fill which is upwards of 70ft of fill. So there are a lot of questions as to how is that going to infiltrate if they are doing proper compaction. There are a lot of questions on that. We are looking for invert elevations on the structures found on site. We have elevations of some of the structures but we don't have anything out by the warehouses so we really don't know what the slopes are going to be. Erosion sediment control plans and the existing conditions site plan, proposed condition site plan which were both included. We are needing details on the warehouses, sprinkler systems, roof drains, details on sanitary sewer, water main extension along state route 144 which is typically included within the site plan packet showing limits of disturbance which is also supposed to be accounted for in the SWPPP and the erosion sediment control plan and the SWPPP. So in order for the application to be approved as a final site plan review, we need to see the SWPPP as well as a NOI. So, without either of those we can't approve of this."

Rob then reiterated that in order for the application to be approved as a final site plan review, we will need to see the SWPPP as well as a Notice of Intent. Without either of those, plus the missing information that's already been discussed, we can't approve of this.

Dominck then stated that we will have to keep this as a disapprove/resubmit and Rob will follow up with George McHugh from the Town of Coeymans and get permission to talk to someone from Ingalls & Associates, who prepared the construction document, so we can clarify what we need.

With no further comments or questions from the Board, Brian Crawford made a motion to accept the Staff Opinion for Referral **#05-200703512**. The motion was seconded by Gerry Engstrom and unanimously approved by the Board.

New/Unfinished Business:

Gopika Muddappa will be filling in for a few months while Laura Trivison is on maternity leave.

There was a discussion about the state statute giving us the ability to meet remotely. Lynn Delaney explained that the most recent Executive Order allows for remote public meetings for another month and expires on 8/5/2020. We should know by early August whether that will be extended or not. If it is extended, we will have the option to meet remotely or to meet in person provided we are in a space that will allow for appropriate social distancing. If it is not extended, we will be required to meet in person. Lynn also said that she has contacted Cornell Cooperative Extension and booked the large

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meeting room for all of the remaining ACPB meeting dates this year in case we do want or need to begin meeting in person.

Our next meeting is August 20th either in person or via Skype. Dominic told the Board that if anyone has any concerns about meeting in person, to please let us know as soon as possible.

Adjourn: Gerry Engstrom made a motion to adjourn at 4:39pm.

A transcription and/or video recording of this meeting will be made available upon receipt of a FOIL request.