



DANIEL P. MCCOY
COUNTY EXECUTIVE

COUNTY OF ALBANY
PLANNING BOARD
449 NEW SALEM ROAD
VOORHEESVILLE, NEW YORK 12186
PHONE (518) 655-7932 FAX (518) 447-7047

GERALD ENGSTROM JR.,
AICP
CHAIRPERSON

TRAVON T. JACKSON
VICE CHAIRPERSON

ACPB Meeting Minutes – September 21, 2023

NOTE: The September 21, 2023 meeting of the ACPB was held in person at the Albany County DPW office in Voorheesville. The meeting was also available remotely via Microsoft Teams for the public to participate.

Board Members Present: Gerry Engstrom, Brian Crawford, Beth Lacey, Jeff LaFontaine, Travon Jackson (arrived 3:50).

Board Members Absent: None

Albany County Public Works Office: Gopika Muddappa, Senior Planner; Rosa Tirino, Director of Operations; James Mearkle, Traffic Engineer; Zachary Smetana, Albany County Dept. of Management and Budget, Ex Officio; Anton Konev, Albany County Comptroller's office, Ex Officio.

Guests: Jake Eisland and Juliette Geraghty (for the Albany Common Council Ordinance referral); Dave Kimmer (ABD Engineers for 4478 Western Ave referral); Keith Flach (Flach property line adjustment referral); and the following attendees for the Gerken Special Use Permit Referral: Judith Matloff; Brigitte Hammond; Lawrence Strick; Jeannette Rice; Nora H Logan; Diana Hinchcliff; M Kennedy; L Tompkins. In addition, Nick Schupp with Renew Energy (Farm Lane Change referral) and Dan Hershberg of Hershberg and Hershberg (Franciscan Ministries referral) attended via Microsoft Teams.

Minutes: Rosa Tirino and Gopika Muddappa

Call to Order: Gerry Engstrom called the meeting to order at 3:41pm.

Vote for Meeting Minutes: Beth Lacey made a motion to accept the August 17, 2023 Meeting Minutes. The motion was seconded by Jeff LaFontaine and was also approved by Gerry Engstrom and Brian Crawford (Travon Jackson had not arrived at this point).

ACPB 9/21/23 Meeting Minutes (cont.)

Brian Crawford made a motion to move all cases with a Staff Opinion of Defer to Local Consideration to the front of the agenda and to vote on them as a group. The motion was seconded by Beth Lacey and was also approved by Gerry Engstrom and Jeff LaFontaine.

There were two cases originally listed in this group that were pulled from the group vote so the Board could discuss them in more detail. Case #15-230904328 from the Town of Rensselaerville and #02-230904331 from the Village of Altamont will be reviewed separately following the group vote.

Case #:	<u>01-230904316</u>
Project Name:	161 Washington Ave Ext Unit 103 - Area Variance
Applicant:	Metropolitan Signs
Project Location:	161 Washington Ave Ext Unit 103
Municipality:	City of Albany
Parcel Size:	26.76 acres
Zoning:	Mixed Use, Community Highway zoning district (MU-CH)
Tax Map Number:	52.2-1-26.1
Referring Agency:	City of Albany Zoning Board of Appeals
Considerations:	Area variance to allow for a 227 SF wall sign, where the maximum permitted is 32 SF.
Action Type:	Area Variance
Juris. Determinant:	State Road
Potential Impacts:	I87 New York State Thruway
Staff Notes:	The applicant proposes to replace the existing signage with the new "Planet Fitness" design and colors. The new signage will be placed in the same area as the removed sign & logo. The proposed wall sign exceeds the maximum size of 32 square feet allowed in the Mixed Use, Community Highway zoning district. The proposed wall sign is 445 square feet.

Staff Opinion: Defer to local consideration
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #: 01-230904317
Project Name: **Ordinance 29.71.23**

Applicant: Albany Common Council
Project Location: City of Albany
Municipality: City of Albany
Parcel Size: N/A
Zoning: N/A
Tax Map Number: N/A
Referring Agency: City of Albany Legislative Board

Considerations: Amendment to Unified Sustainable Development Ordinance (USDO) to allow cannabis as a type of retail similar to bars rather than as a controlled substance.

Action Type: **Amendment of Zoning Ordinance**

Juris. Determinant: N/A
Potential Impacts: N/A

Staff Notes: This is a revision of Chapter 375 of the City Code regarding cannabis regulations. It includes changes to existing and proposed definitions, use-specific standards, permitted-use table and operating and maintenance standards for adult-use cannabis uses. Amendments to address recent changes in NYS Law (MRTA/Cannabis Law) and subsequent regulations put forward by NYS. Section 1 of this ordinance updates the permitted use table. Section 2 changes references to “food and beverage service and “bar and tavern” to include cannabis consumption sites. Section 3 adds use-specific standards for cannabis dispensaries, and removes references to marijuana dispensaries. Section 4 gets rid of use-specific standards for marijuana manufacturing facilities. Section 5 establishes hours of operation for cannabis consumption sites and dispensaries. Section 6 adds definitions for “Cannabis Consumption Site” and “Cannabis Dispensary,” deletes definitions for “Marijuana Dispensary” and “Marijuana Manufacturing Facility,” and clarifies and updates other definitions.

Staff Opinion: Defer to local consideration
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #: 01-230904318
Project Name: **Ordinance 32.81.23**

Applicant: Albany Common Council
Project Location: City of Albany
Municipality: City of Albany
Parcel Size: N/A
Zoning: N/A
Tax Map Number: N/A
Referring Agency: City of Albany Legislative Board

Considerations: Amendment to Unified Sustainable Development Ordinance (USDO) requiring off-street parking during construction projects.

Action Type: **Amendment of Zoning Ordinance**

Juris. Determinant: N/A
Potential Impacts: N/A

Staff Notes: Amendment to Chapter 375-405 of the City Code to clarify the requirement for off-street parking are not abrogated during construction. Section 1. Paragraph C of the Chapter will be amended to read as, ' (c) Minimum required and maximum parking allowed (i) In all zoning districts, off-street parking shall be provided in accordance with Table 375.405.1, Minimum and Maximum Off-Street Parking, as adjusted by other provisions of this USDO, and such off-street parking shall remain available in such quantities as described in Table 375.405.1 for the duration of the use. Section 2 SUBparagraph of the Chapter 375 will be amended to read as, ' (iv) Off-site parking. A. Where allowed as a permitted or conditional use in Table 375.302.1 (Permitted Use Table), and as an alternative to providing on-site parking, parking spaces that are not required to be provided on-site by the Americans with Disabilities Act or state law may be provided at a location with the closest lot line being no more than 300 feet from a lot line of the property with the development or redevelopment it serves B. The off-site parking spaces shall be located with a legally compliant parking lot

or garage that complies with all applicable use regulations set forth within this USDO, and such spaces shall not also be credited to another use at the proposed or another location. C. The applicant for approval of off-site parking shall provide evidence, at the Chief Planning Official's request, that the proposed off-site parking location will remain available for the proposed parking use for a period of at least two years. Nothing in this section shall be construed as abrogating the requirement for minimum parking requirements to be satisfied for the life of the project.'

Staff Opinion:

Defer to local consideration

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Jake Eisland representing the City of Albany Common Council spoke about the two ordinances.

Case #: 06-230904340
Project Name: **Harmony Mills - Powerhouse Project**

Applicant: Day Care Acquisitions LLC
Project Location: 1A North Mohawk Street
Municipality: City of Cohoes
Parcel Size: 0.62 acres
Zoning:
Tax Map Number: 10.7-7-27.2
Referring Agency: City of Cohoes Planning Board

Considerations: Site plan amendment and lot line adjustment of the property to include additional green area and patio area to the proposed pool.

Action Type: **Site Plan Review (Amendment), Lot Line Adjustment**

Juris. Determinant: Recreation Area
Potential Impacts: Mohawk River

Staff Notes: This is a site plan amendment proposing the renovation of the existing vacant powerhouse building into exercise and recreational amenities including an outdoor pool as well as co-working space with modifications to the parking and driveway circulations. Lot line adjustment of the

property is also proposed to provide area to include additional green area and patio area at proposed pool. Area of No. 1A North Mohawk Street increases from 0.62 Acre to 0.70 Acre.

Staff Opinion: Defer to local consideration
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #: 17-230904319
Project Name: Brian Beaury Jiu Jitsu Studio

Applicant: Brian Beaury
Project Location: 1623 2nd Ave, 1617 Second Ave, 1613 Second Ave
Municipality: City of Watervliet
Parcel Size: 0.54 acres
Zoning: Two-Family Residential (R-2)
Tax Map Number: 32.67-1-33
Referring Agency: City of Watervliet Zoning Board of Appeals

Considerations: Use variance to convert the existing building into a membership based jiu jitsu and martial arts academy.

Action Type: Use Variance

Juris. Determinant: State Road
Potential Impacts: 32 Second Avenue, FEMA Floodzones

Staff Notes: The applicant proposes to use the existing building as a membership based jiu jitsu and martial arts academy which is currently based on 711 3rd Avenue. Proposed improvements include minor changes to interiors such as fresh paint, bathroom stalls, interior decors and to utilize the empty spaces to add martial arts equipment such as mats and heavy bags. In addition to the existing 9 parking space, approximately 6,000 SF of additional parking spaces are proposed. The existing signage for Science Shop is to be replaced with Brian Beaury Jiu Jitsu sign of the same size. Currently, the building is operated as a Science & Hobby Shop. There are three parcels involved - one is the main building which houses the Science and Hobby Shop (1623 Second Ave), one is a two-family residential property (1617 Second Ave) and one is a separate parking lot

(1613 Second Ave). The applicant will need to get the use variance approved before combining the three lots.

Staff Opinion: Defer to local consideration
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #: 03-230904320
Project Name: **Area Variance for Setbacks and Lot Coverage**

Applicant: Todd Martin
Project Location: 64 Lakeside Lane
Municipality: Town of Berne
Parcel Size: 0.33 acres
Zoning: Residential/Agricultural/Forestry (RAF)
Tax Map Number: 70.13-1-20
Referring Agency: Town of Berne Zoning Board of Appeals

Considerations: Area variance for the construction of 1,140 SF building addition to include a mudroom, garage, art studio and a gym with storage above.

Action Type: **Area Variance**

Juris. Determinant: Thompsons Lake
Potential Impacts: Thompsons Lake, FEMA Floodzone, NWI Wetlands

Staff Notes: The applicant proposes a 1,140 SF building addition to an existing single family residence. The addition is to include an attached two story building with a garage, an art studio, gym and storage on the second floor accessed by stairs. The garage will be attached to the existing house through a new mudroom. A 409 SF deck is also proposed along with 46 SF front porch. Less than one acre of land disturbance is anticipated as per the Short Environmental Assessment Form (SEAF).

Staff Opinion: Defer to local consideration

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #: 04-230904321
Project Name: Bethlehem Animal Hospital

Applicant: Andrew Defino, Chief Growth Officer
Project Location: 444 Route 9W Glenmont
Municipality: Town of Bethlehem
Parcel Size: 835.00 acres
Zoning: Commercial Hamlet
Tax Map Number: 97.15-2-5
Referring Agency: Town of Bethlehem Planning Board

Considerations: Site plan review for a 1000 SF single story addition to the east side of the existing animal hospital.

Action Type: Site Plan Review

Juris. Determinant: State Road
Potential Impacts: Route 9W

Staff Notes: The proposed project is a small addition to the east side (rear of the building) of the existing animal hospital. The new addition is ~1,000 s.f. and will have a roof ridge height of ~20'-3". The total site area affected by the construction will be ~1,600 s.f., which includes 5' of pull back space for the foundation excavation. The available greenspace calculation at the completion of the 71%. The reduction in greenspace due to the project is 3%. No new utilities or upgrades are required by the project, as all existing utilities have the required capacity. Storm water will continue to flow in the same manner as the existing. All required setbacks are met (Front yard is not affected, side yard minimum is 10' while the provided is 20', rear yard minimum is 40' while the provided is ~70'). Existing site signage is to remain. All existing drives/ingress/egress are to remain. As a medical office, (12) parking spaces are required and (14) are existing. Less than one acre of land disturbance is anticipated as per the Short Environmental Assessment Form (SEAF). The proposed addition will make use of the existing water supply/utility connected to the existing structure. No new service upgrade is required or proposed. Existing parking areas are to remain.

Code requires a total of 12 spaces for the overall facility (including new addition), for which the existing parking areas currently provide 14 spaces. New striping will be provided in both parking areas.

Staff Opinion: Defer to local consideration
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #: **04-230904322**
Project Name: **Whirlwind Holdings Co, LLC - Solar Application**

Applicant: Whirlwind Holding Co. LLC/ Ryan Penno
Project Location: 119-123 Weisheit Rd, Glenmont
Municipality: Town of Bethlehem
Parcel Size: 40.00 acres
Zoning: Rural
Tax Map Number: 110.00-1-25.1
Referring Agency: Town of Bethlehem Planning Board

Considerations: Site plan review for the installation of 34.56KW roof top solar array and a 9.6 KW small scale ground mounted solar array.

Action Type: **Site Plan Review**

Juris. Determinant: State Road
Potential Impacts: I87 New York State Thruway

Staff Notes: The proposed rooftop system will provide 90% offset of the electricity usage at the commercial building and the ground mounted array will offset 80% of meter 1 and 90.7% of meter 2 at the residence, all under the 110% allowed. The Zoning board approved the variance requested for the ground mount; there will be 6 shrubs (Tri-color willows) placed 25' from the array to screen the array. The surrounding land uses are residential, commercial and agricultural. The Albany County Planning Board reviewed this case (04-230704286) in July 2023 for area variance for the installation of small scale ground mounted solar PV System to be

located within a front yard and the determination was,'Defer to local consideration

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.'

Staff Opinion:

Defer to local consideration

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #:

05-230904323

Project Name:

Keith Flach - Lot Line Adjustment

Applicant:

Keith Flach

Project Location:

197 Tompkins Road

Municipality:

Town of Coeymans

Parcel Size:

33.89 acres

Zoning:

Residential Agricultural (R/A)

Tax Map Number:

155.-1-7.31

Referring Agency:

Town of Coeymans Planning Board

Considerations:

Lot line adjustment for three lots on County Route 106.

Action Type:

Lot Line Adjustment

Juris. Determinant:

County Route

Potential Impacts:

CR 106 Tompkins Road

Staff Notes:

The applicant proposes a lot line adjustment of the previously subdivided property. The total acreage of the property is 22.44 acres. After the lot line adjustment, Lot 1 will be 9.49 acres, Lot 2 will 6.99 acres which originally was 7.90 acres, and Lot 3 will be 17.44 which was originally 16.90 acres.

Staff Opinion: Defer to local consideration
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Keith Flach attended the meeting, but the Board stated that they did not need any additional information.

Case #: 07-230904324
Project Name: **Special Use Permit - Self Storage Facility**

Applicant: Dan Hershberg, PE & LS
Project Location: 1086 Troy Schenectady Road
Municipality: Town of Colonie
Parcel Size: 2.05 acres
Zoning: Commercial Office Residential (COR)
Tax Map Number: 18.-2-4
Referring Agency: Town of Colonie Zoning Board of Appeals

Considerations: Special use permit to use the existing office building as a self-storage/warehouse facility.

Action Type: **Special Use Permit**

Juris. Determinant: State Road
Potential Impacts: 7 Troy Schenectady Road

Staff Notes: A proposal to change the use of the existing office building to a self-storage/warehouse facility located in the Commercial Office Residential (COR) zoning district. It is an allowable use subject to special use permit as per the Town of Colonie Land Use Law. No exterior or site renovations are proposed at this time. A future canopy is anticipated.

Staff Opinion: Defer to local consideration
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #: 10-230904325
Project Name: 1854 Western Ave Change in Zone - Amendment

Applicant: Christopher Laviano
Project Location: 1854 Western Ave
Municipality: Town of Guilderland
Parcel Size: 1.14 acres
Zoning: Residential (R15)
Tax Map Number: 52.09-6-2
Referring Agency: Town of Guilderland Legislative Board

Considerations: Amendment to previously proposed rezoning of 1.14 acres parcel from Single Family Residential (R15) to Local Business (LB).

Action Type: Rezoning (Amendment)

Juris. Determinant: State Road
Potential Impacts: 20 Western Avenue

Staff Notes: The proposed zoning change seeks to convert a residential lot into a Local Business zone, driven by its location along a major roadway. The primary objective is to leverage the area's visibility and accessibility in order to stimulate economic growth and attract businesses while also ensuring the well-being of the surrounding residential community. The original proposal was to rezone only 0.45 acres of the parcel from R15 zoning district to Local Business District. By rezoning the 1.14 acre lot, a significantly larger amount of green space and trees will be preserved compared to the previous subdivision plan. This application was previously reviewed in May 2023 and the Albany County Planning Board determination was, 'Defer to local consideration'
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.'

Staff Opinion: Defer to local consideration
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #: 10-230904326
Project Name: Farm Lane Change in Zone - Amendment

Applicant: Ecolegacy Values LLC
Project Location: 6283-6285 Farm Ln Pr
Municipality: Town of Guilderland
Parcel Size: 128.40 acres
Zoning: Residential Overlay (RO40)
Tax Map Number: 50.00-3-2
Referring Agency: Town of Guilderland Planning Board

Considerations: Amendment to previously proposed rezoning of 68.45 acres from Residential Overlay (RO40) zoning district to Rural Agricultural (RA3) zoning district.

Action Type: Rezoning (Amendment)

Juris. Determinant: Agricultural District
Potential Impacts: Agricultural District

Staff Notes: This is an amended change in zone application from a previous referral to the Albany County Planning Board. The applicant had previously requested 35 acres +/- be converted from the Residential Overlay (RO40) District to the Rural Agricultural (RA3) District. The applicant is now requesting 68.45 acres be converted from the RO40 District to the RA3 District. The reason for the amended application is due to revising the proposed lot district boundary line. The rezoning is proposed to allow installation of 5.0 MWAC single axis tracker solar array. The array will include the construction of a 20 foot wide access road, new above and below ground utility lines, transformer/inverter pads, and a 7 foot height fence per the national electric code. The installation will comply with NYS Ag and Markets guidelines for solar energy projects. If the change in zone is approved by the Town Board the applicant will be submitting a special use permit and minor subdivision application for a ground mounted solar facility. Ground mounted solar is a permitted use in the RA3 District, subject to special use permit approval. The ACPB determination for the case 10-230704268 was, 'Defer to local consideration

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.'

Staff Opinion: Defer to local consideration

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Nick Schupp from Renew Energy spoke to the Board to state that the Town of Guilderland Planning Board had requested that they make a change to the shape to make the lot more symmetrical. There will not be any additional equipment on the acreage but the increased dimensions require the amendment to be submitted. The Board did not have any additional questions.

Case #: **13-230904327**

Project Name: **Lands of Histed**

Applicant: Brent Histed

Project Location: 8 & 20 Histed Lane

Municipality: Town of New Scotland

Parcel Size: 0.8, 5.02 acres

Zoning: R4

Tax Map Number: 95.-3-48.2, 95.-3-48.1

Referring Agency: Town of New Scotland Planning Board

Considerations: Lot line adjustment of two adjoining lots with existing dwelling and improvements.

Action Type: **Lot Line Adjustment**

Juris. Determinant: State Road, Municipal Boundary

Potential Impacts: 443 Delaware Tpke, Intermunicipal Boundaries of Town of New Scotland and Town of Bethlehem

Staff Notes: Lot line adjustment between the parcels located at 8 and 20 Histed Lane. Currently, 8 Histed Lane is 0.8 acres and 20 Histed Lane is 5.02 acres. Proposed new lots are to be 1.66 acres and 4.22 acres respectively. Both parcels have existing dwellings and improvements.

Staff Opinion: Defer to local consideration
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Advisory Note: 1. The acreage of the parcels in the site plan does not match with the municipal applications. The Town should ensure the discrepancy is resolved before the lot line adjustment is approved.

Case #: 12-230904330
Project Name: 4 Unit Apartment Building

Applicant: Park South Real Estate Corp.
Project Location: 50 -56 Clifford Road
Municipality: Village of Menands
Parcel Size: 1.62 acres
Zoning: R3A-4 Family Residential
Tax Map Number: 55.6-1-23
Referring Agency: Village of Menands Planning Board

Considerations: Site plan review for construction of four additional 4-unit apartment building in addition to the two existing 4-unit apartments buildings including parking, pedestrian access, landscaping and connects to Village water and sewer.

Action Type: Site Plan Review

Juris. Determinant: State Road
Potential Impacts: State Route 378

Staff Notes: This is a site plan review application for the construction of four additional 4-unit apartment buildings in addition to the existing 4-unit apartment buildings including parking, pedestrian access, landscaping and connects to Village water and sewer. The property is currently occupied by two structures, each containing four 4-unit apartments. With the proposed buildings the property will have a total of 24 apartment units. A total of 0.82 acres of land disturbance is anticipated as per the Short Environmental Assessment Form. A total of 48 parking spaces including handicap parking spaces is indicated on the site plan. The Village Zoning Board of Appeals reviewed this proposal for relief from Village Code regarding allowed density of number of units per acre

in the R-3A Residential District. In addition, the applicant also sought relief for the required rear-yard setback for one of the proposed buildings where 40 feet is required but only 14.2 feet was proposed. It is noted in the ZBA approval notice that the date of application preceded the official adoption of the new zoning regulations under Chapter 169 of the Village Code of rules and regulations. As a result, this project falls within the parameters of the code that was in-effect at the time of application. The Village ZBA unanimously approved the applicant's request for relief from the code for maximum density of 12 units per acre and the required 40 feet rear yard setback.

Staff Opinion:

Defer to local consideration

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Case #:

12-230904339

Project Name:

Local Law #7 - Village of Menands

Applicant:

Village of Menands

Project Location:

Village of Menands

Municipality:

Village of Menands

Parcel Size:

N/A

Zoning:

N/A

Tax Map Number:

N/A

Referring Agency:

Village of Menands Legislative Board

Considerations:

Adoption of local law to amend Chapter 169 to control substance dispensaries.

Action Type:

Adoption of Local Law

Juris. Determinant:

N/A

Potential Impacts:

N/A

Staff Notes:

The Village Board finds that it is in the best interest of the Village of Menands to amend Chapter 169 of the Village Code entitled "Zoning" in order to revise certain provisions related to dispensing controlled substances.

Staff Opinion:

Defer to local consideration

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Beth Lacey made a motion to accept the Staff Opinion for the following cases: 01-230904316, 01-230904317, 01-230904318, 06-230904340, 17-230904319, 03-230904320, 04-230904321, 04-230904322, 05-230904323, 07-230904324, 10-230904325, 10-230904326, 13-230904327, 12-230904330, & 12-230904339. The motion was seconded by Travon Jackson and was unanimously approved by the Board.

Due to the fact that the majority of guests attending the meeting expressed that they were attending for the application of Case #15-230904331, the Board moved both this case and the other Gerken referral (#15-230904328) from their original locations on the agenda to review next.

Case #:**15-230904328****Project Name:****Gerken Special Use permit - Accessory Apartment****Applicant:**

Christopher Gerken

Project Location:

1340 County Route 351

Municipality:

Town of Rensselaerville

Parcel Size:

44.23 acres

Zoning:

Agricultural/Rural Residential (A/RR)

Tax Map Number:

137.-1-36.22

Referring Agency:

Town of Rensselaerville Planning Board

Considerations:

Special use permit to create an apartment for mother-in-law above the existing garage.

Action Type:**Special Use Permit****Juris. Determinant:**

County Road

Potential Impacts:

County Route 351, Agricultural District

Staff Notes:

The applicant proposes to build a second story accessory apartment above the existing garage as a residence for the applicant's mother-in-

law. Less than one acre of land disturbance is anticipated as per the Short Environmental Assessment Form (SEAF).

Staff Opinion: Modify local approval to include
1. The Albany County Planning Board advises the Town to require the applicant to provide drawings/renderings of the proposed accessory dwelling prepared by a licensed professional to assess the proposed use.

This application is for a Special Use Permit to build an accessory apartment. The Board determined that this application needed to add a modification to make the applicant aware that a more detailed drawing will be required going forward.

Brian Crawford made a motion to accept the Staff Opinion with the modification added (noted above as Modification #1) for Case #15-230904328. The motion was seconded by Travon Jackson and was unanimously approved by the Board.

Case #: 15-230904331
Project Name: Gerken Special Use Permit - Major Home Occupation

Applicant: Christopher Gerken
Project Location: 1340 County Route 351
Municipality: Town of Rensselaerville
Parcel Size: 44.23 acres
Zoning: Agricultural/Rural Residential (A/RR)
Tax Map Number: 137.-1-36.22
Referring Agency: Town of Rensselaerville Planning Board

Considerations: Special use permit for major home occupation in order to maintain NYS dealership license which requires a commercial property.

Action Type: Special Use Permit

Juris. Determinant: County Road
Potential Impacts: County Route 351, Agricultural District

Staff Notes: The applicant proposes a major home occupation for garage storage and ability to keep the applicant's dealer license in New York State which requires a commercial property to register. As per the referral form, the

applicant does not plan to operate a business from his home. Several public comments have been received in opposition to the proposed use. A major home occupation as per the Town of Rensselaerville Zoning Law Article XI Section 2 is defined as 'a major home occupation is a home occupation that creates regular on-site customer or supplier traffic or employs more than one non-residential employee'.

Staff Opinion:

Disapprove

1. The proposed location is zoned Agricultural/ Rural Residential. The proposed project is a major home occupation for commercial use. A major home occupation as defined in the Town of Rensselaerville Zoning Law Article XI Section 2 'creates regular on-site customer or supplier traffic or employs more than one non-residential employee'. The proposed use of car dealership is not compatible with adjacent residential land use pursuant to GML 239-I (a) and (c).
2. The proposed project impacts the community character significantly since this is a non-residential use proposed in the rural residential zoning district pursuant to GML 239-I (d).
3. The application should be reviewed for a use variance since the applicant proposes a commercial use in a residential zoning district which is a potential change of use. Before the Town Zoning Board can grant a use variance, the applicant must demonstrate "unnecessary hardship." The applicant should include an explanation that justifies the need for a variance with criteria set for in state statute.
4. The Town Zoning Board of Appeals should consider the precedent setting nature of allowing significant use variances, or special use permit in this case, to the town code in the Agricultural/Rural Residential zoning district.
5. If the Town allows the major home occupation with a special use permit for the mere purpose of maintaining a license, it should be done so with strict conditions that prohibit any kind of business operations on-site, employees, dealership advertisements and test drives.

Advisory Note:

1. The Albany County Planning Board advises the Town to require official drawing or rendering from the applicant prepared by licensed professionals that are not hand drawn to assess of the proposed use.

The Board received numerous written public comments regarding this referral (listed as Attachment A.)

Jeff LaFontaine made a motion to accept the Staff Opinion of Disapprove for Case #15-230904331. The motion was seconded by Brian Crawford and was unanimously approved by the Board.

After the vote, Diana Hinchcliff asked the Board if she could make a comment. She reiterated some of the points related to DMV that were outlined in her letter to the Board (found within Attachment A). She then thanked the Board for their decision.

<u>Case #:</u>	<u>02-230904329</u>
Project Name:	Local Law #1 of 2023 - Keeping of Chickens
Applicant:	Village of Altamont
Project Location:	Village of Altamont
Municipality:	Village of Altamont
Parcel Size:	N/A
Zoning:	N/A
Tax Map Number:	N/A
Referring Agency:	Village of Altamont Legislative Board
Considerations:	Adoption of local law to permit the raising of chickens within the Village of Altamont under specific conditions.
Action Type:	Adoption of Local Law
Juris. Determinant:	N/A
Potential Impacts:	N/A
Staff Notes:	This local law is intended to permit the raising of chickens within the Village of Altamont under specific conditions. Chickens and hens shall be kept for personal, noncommercial use only. Breeding of chickens, and the sale of chicken products and the production of fertilizer are prohibited. The minimum lot size for the raising of chickens is proposed as 10,000 SF. Only applicants residing in a single family, owner occupied dwelling within the Village shall be authorized to apply for a permit to keep and raise chickens.

Staff Opinion: Defer to local consideration
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Gerry Engstrom stated that he felt strongly that this should be approved.

Gerry Engstrom made a motion to accept the Staff Opinion for Case #02-230904329. The motion was seconded by Travon Jackson and was unanimously approved by the Board.

Case #: **01-230904332**
Project Name: **400 Northern Boulevard - Area Variance**

Applicant: KIPP Tech Valley Charter
Project Location: 400 Northern Blvd
Municipality: City of Albany
Parcel Size: 7.77 acres
Zoning: Mixed-Use Neighborhood Edge (MU-NE)
Tax Map Number: 65.11-2-1
Referring Agency: City of Albany Zoning Board of Appeals

Considerations: Area variance to allow 64 foot front yard setback where the maximum permitted is 10 feet and to allow four-story building where the maximum allowed is three-stories per the City Code.

Action Type: **Area Variance**

Juris. Determinant: State Road
Potential Impacts: Route 9

Staff Notes: This project involves the construction of a new High School building for KIPP expanding its campus which currently includes a primary and middle school. The high school is proposed to be constructed on five (5) existing parcels which are to be consolidated, totaling 10.38 acres of land. Some existing structures, i.e. a funeral home, and two (2) two-family residences will be demolished. The redevelopment includes the new four story high school building with a footprint of 37,400 SF with associated driveways, parking lots, and concrete walks. The parcels are located along Dudley Heights with six (6) existing curb cuts. Access to the high school will work with the existing accessway to the primary school which is expected to result in the consolidation of curb cuts. One curb

cut will be widened to accommodate bus and emergency vehicle access. The parcel is currently serviced by public water and public sewer from the City of Albany Water Board. All improvements proposed will be owned and operated by the landowner with no facilities being conveyed to the City of Albany. This application was reviewed by the Albany County Planning Board in July 2023 for site plan review and special use permit for the construction of a 108,400± SF School and demolition of adjacent structure at 6B-10 Dudley Heights. The ACPB determination was, '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-0-20-001, January 29, 2020) for construction activities that disturb more than one acre of land.' and an advisory note, '1. The Albany County Planning Board advises that the City should require a demolition review from the applicant to ensure no hazardous materials are present on site.'

Staff Opinion:

Modify local approval to include

1. The proposed development was reviewed by the Albany County Planning Board for a site plan review in July 2023. Applications should be first reviewed for variances before site plan review to assess the zoning compliance of the proposed project.

Brian Crawford made a motion to accept the Staff Opinion for Case #01-230904332. The motion was seconded by Beth Lacey and was unanimously approved by the Board.

<u>Case #:</u>	<u>06-230904333</u>
Project Name:	787 Break In Access
Applicant:	Hudson River Community Credit Union
Project Location:	35 Niver Street
Municipality:	City of Cohoes
Parcel Size:	2.14 acres
Zoning:	Mixed Use Waterfront (MU-2)
Tax Map Number:	20.12-3-2
Referring Agency:	City of Cohoes Planning Board

Considerations: Site plan review to construct an access driveway from Cohoes Boulevard to Credit Union.

Action Type: Site Plan Review

Juris. Determinant: State Road, Municipal Boundary
Potential Impacts: I787 Interstate Highway, Intermunicipal Boundaries of City of Cohoes and Village of Green Island, FEMA Floodzones, NWI and NYSDEC Wetlands

Staff Notes: The applicant proposes to construct a new site access point from Cohoes Boulevard. The parcel is bordered on the west by Cohoes Boulevard, a/k/a Interstate 787 and Dyke Avenue to the west with a principal access driveway at Dyke Avenue. The subject parcel presently shares a boundary line with lands owned by The People of The State of New York. New York State Department of Transportation (NYSDOT) has approved the break in access and subsequent construction activities proposed within their ROW. The scope of work for the proposed project involves brush removal, grading, culvert installation, paving and appurtenances such as signage, minor electrical and sign relocation. Less than one acre of land disturbance is anticipated as per the Short Environmental Assessment Form (SEAF).

Staff Opinion: Modify local approval to include
1. Review and permits by New York State Department of Transportation for development plans involving new or modified access to a state highway.

Jim Mearkle, Albany County Traffic Engineer, spoke with the Board about his review of this referral.

Beth Lacey made a motion to accept the Staff Opinion for Case #06-230904333. The motion was seconded by Jeff LaFontaine and was unanimously approved by the Board.

Case #: 07-230904334
Project Name: Jandali Mixed Use Redevelopment

Applicant: Jandali Realty, Rasheed Jandali
Project Location: 827 Troy Schenectady Road
Municipality: Town of Colonie
Parcel Size: 0.28 acres
Zoning: Neighborhood Commercial Office Residential (NCOR)

Tax Map Number:	18.2-2-47
Referring Agency:	Town of Colonie Planning Board
Considerations:	Site plan review for the construction of a two-story mixed use building with a realty office on the first floor and an apartment on the second floor.
Action Type:	Site Plan Review
Juris. Determinant:	State Road
Potential Impacts:	7 Troy Schenectady Road
Staff Notes:	Proposed is a mixed -use commercial/residential building. The entrance level is to be a real estate brokerage office space to be occupied by Jandali Realty. The second floor is to be a residential apartment. It is proposed to be a single dwelling unit with two bedrooms and one bathroom. Less than one acre of land disturbance is anticipated as per the Short Environmental Assessment Form (SEAF). The parcel is currently vacant.
Staff Opinion:	Modify local approval to include 1. Review and permits by New York State Department of Transportation for commercial property development plans involving new or modified access to a state highway, or involve any change of use or expansion of an existing development on a state highway. The NYSDOT should consider drainage to the side of the building with the curb cut to the state highway.

The Board reviewed the Site Plan and discussed it in detail. They determined that they wanted to add a sentence to Modify #1 that asks NYSDOT to consider adding drainage to the side of the building (noted above).

With the addition wording, Brian Crawford made a motion to accept the Staff Opinion for Case #07-230904334. The motion was seconded by Travon Jackson and was unanimously approved by the Board.

Case #: 07-230904335
Project Name: Woodhaven Mixed Use

Applicant: Woodhaven Land Partners, LLC
Project Location: 302 Troy Schenectady Road
Municipality: Town of Colonie
Parcel Size: 0.63 acres
Zoning: Commercial Office Residential (COR)
Tax Map Number: 31.8-1-6
Referring Agency: Town of Colonie Planning Board

Considerations: Site plan review for the proposed construction of a three-story mixed-use building including parking at the lower lever.

Action Type: Site Plan review

Juris. Determinant: State Road
Potential Impacts: 2 Troy Schenectady Road

Staff Notes: The applicant is proposing to construct a mixed-use building on 0.63 acres at 302 Troy Schenectady Road. The project will include a single full access driveway, 20 parking spaces, and on-site stormwater management. The three-story building is approximately 11,200 SF and includes parking at the lower lever, mixed commercial use on the main first floor and apartments on the upper level. Less than one acre of land disturbance is anticipated as per the Short Environmental Assessment Form (SEAF).

Staff Opinion: Modify local approval to include
1. Review and permits by New York State Department of Transportation for commercial property development plans involving new or modified access to a state highway, or involve any change of use or expansion of an existing development on a state highway.

Advisory Note: 1. The Albany County Planning Board advises the Town of Colonie to confirm the number of onsite parking spaces since the numbers shown on the site plan (12 spaces) and narrative (20 spaces) does not match.

Brian Crawford made a motion to accept the Staff Opinion for Case #07-230904335. The motion was seconded by Beth Lacey and was unanimously approved by the Board.

Case #: 10-230904336
Project Name: 4478 Western Turnpike - Area variance

Applicant: Michael Floccuzio
Project Location: 4478 Western Turnpike Altamont
Municipality: Town of Guilderland
Parcel Size: 10.00 acres
Zoning: Rural Agricultural (RA3)
Tax Map Number: 26.00-4-1
Referring Agency: Town of Guilderland Zoning Board of Appeals

Considerations: Area variance for the construction of four warehouse buildings within 500 feet of the Watervliet Reservoir.

Action Type: Area Variance

Juris. Determinant: State Road
Potential Impacts: 20 Western Avenue, State Route 158, NWI Wetlands

Staff Notes: The applicant proposes to develop the site for four contractor storage/warehouse buildings with adjacent outdoor storage for materials and equipment. The applicant would occupy one building and the remaining three buildings would be available for lease to similar contractors or subcontractors in the housing industry. The applicant is a home building contractor and site contractor. The indoor storage would be used for pre-purchase of housing materials that need protection from the weather. All the proposed buildings and outdoor storage would be located 300 feet from the adjacent Watervliet Reservoir to the South. A stormwater management system is to be designed in accordance with NYSDEC regulations. The uses are allowed under the Town's RA Rural Agricultural zoning district with an area variance for the use to be 300 feet from the reservoir.

Staff Opinion: Modify local approval to include
1. Review and permits by New York State Department of Transportation for commercial property development plans involving new or modified access to a state highway, or involve any change of use or expansion of an existing development on a state highway.

Dave Kimmer from ABD Engineers addressed the Board and answered any questions that they had. The Board's concern was primarily related to runoff and Stormwater retention. This is a project we will see again so the Board was comfortable with what was submitted for the Area Variance. Beth Lacey made a motion to accept the Staff Opinion for Case #10-230904336. The motion was seconded by Brian Crawford and was unanimously approved by the Board.

Case #: **13-230904337**

Project Name: **Lands of Distefano**

Applicant: Jeff Distefano

Project Location: 659 Krumkill Road

Municipality: Town of New Scotland

Parcel Size: 64.80 acres

Zoning: Residential Conservation (R2)

Tax Map Number: 63.-4-1

Referring Agency: Town of New Scotland Planning Board

Considerations: Minor subdivision of the property into Lot 1 with 59.6 acres and Lot 2 with 5.8 acres.

Action Type: **Subdivision Review**

Juris. Determinant: Municipal Boundary

Potential Impacts: Intermunicipal Boundaries of Town of New Scotland and Town of Guilderland, Agricultural District, FEMA Floodzone

Staff Notes: This is an application for minor subdivision to create two lots. Lot 1 is proposed to be 59 acres and Lot 2 to be 5.8 acres. The purpose of the subdivision is to create a lot for new residential building (Lot 2). No infrastructure or improvements are proposed at this time. Proposed Lot 1 will consist of the existing residence. Less than one acre of land disturbance is anticipated as per the Short Environmental Assessment Form (SEAF).

Staff Opinion: Modify local approval to include
1. Notification of the application should be sent to the Town of Guilderland, including all required notices pursuant to GML §239-nn.

Travon Jackson made a motion to accept the Staff Opinion for Case #13-230904337. The motion was seconded by Brian Crawford and was unanimously approved by the Board.

Case #: 08-230904338
Project Name: **Proposed Redevelopment - Restaurant**

Applicant: Ridgeback Hospitality
Project Location: 1707 Central Ave
Municipality: Village of Colonie
Parcel Size: 0.76 acres
Zoning: Commercial A
Tax Map Number: 29.19-4-1
Referring Agency: Village of Colonie Planning Board

Considerations: Site plan review for the construction of a new 2,325 SF single-story quick serve restaurant with a patio. The existing office building to be demolished.

Action Type: **Site Plan Review**

Juris. Determinant: State Road
Potential Impacts: 5 Central Avenue

Staff Notes: A new 2,325 SF single-story quick serve restaurant is proposed along with a patio. A total 27 on-site parking spaces plus 5 shared parking spaces on the adjacent parcel are proposed to serve the facility. The project will have a drive-thru 'pick-up' lane for orders and a bypass lane. Site improvements include lighting, landscaping, and utilities. The existing 0.9 acres site has an existing two-story office building which is proposed to be demolished. Less than one acre of land disturbance is anticipated as per the Short Environmental Assessment Form (SEAF).

Staff Opinion: Modify local approval to include
1. Review and permits by New York State Department of Transportation for commercial property development plans involving new or modified access to a state highway, or involve any change of use or expansion of an existing development on a state highway.
2. Review by the Albany County Department of Health for food service and other required permits

Advisory Note: 1. The Village should ensure that a demolition review is provided by the applicant to ensure no hazardous materials are present on site.

Beth Lacey made a motion to accept the Staff Opinion for Case #08-230904338. The motion was seconded by Jeff LaFontaine and was unanimously approved by the Board.

Case #: 12-230904341
Project Name: Franciscan Ministries - New Community

Applicant: Franciscan Ministries
Project Location: 98 Menand Road
Municipality: Village of Menands
Parcel Size: 24.10 acres
Zoning: R - One Family Residential
Tax Map Number: 55.5-3-6
Referring Agency: Village of Menands Planning Board

Considerations: Site plan review for the proposed development of senior community. The completed project will include (1) Village Center Area (2) 76 Independent/ Assisted Living units in a four story structure (3) 28 Assisted Living Units and 36 Assisted Living/Memory Care Units in a four-story structure (4) 56 Cottages in duplex and triplex units (5) Structured parking for 50 cars (6) Surface parking and (7) Walking paths.

Action Type: Site Plan Review

Juris. Determinant: State Road, Municipal Boundary
Potential Impacts: 378 Menand Road, 377 van Rensselaer Blvd, Intermunicipal Boundaries of Village of Menands and Town of Colonie, Historic District

Staff Notes: The Applicant proposes a two phased project. The Applicant proposes to demolish buildings on site in a manner to preserve functions. The completed project will have a 1)Village Center area 2) 76 Independent/Assisted Living units in a four story structure 3) 28 Independent/Assisted Living units and 36 Assisted Living/Memory Care units in a four story structure 4) 56 cottages in duplex and triplex units 5) structured parking for 50 cars 6) surface parking 7) walking paths. The purpose is to provide for a continuum of care for Sisters of Charity and for members of the community. The need is that the Sisters of Charity are aging and do not have facilities which could provide for their needs. A use variance is required because the continuum of care facilities proposed are not permitted although they have existed for existing elderly sisters in the existing facilities. The only area variance is a height variance. Permitted building height is 35 feet and maximum number of stories is 2 ½. The primary building height is 79 feet and it exceeds 2 ½ stories. The Applicant will retain ownership and be responsible for installation, maintenance and/or replacement of the private roadway, sanitary sewer system, storm water management system. The Applicant proposes to install the potable water system and hydrants. The Applicant proposes that the Village of Menands take

ownership of the water system. A five acre waiver will be sought from NYSDEC in connection with SWPPP. A total of 19 acres of land disturbance is anticipated during the project development. As per the SEAF, portion of site will be directed to a rain garden and a detention basin. Flow from these two will be treated by a Hydrodynamic Separator and discharged to a NYNYS system in Menand Road. Balance of site will utilize extended detention basin which is connected to NYS system in Menand Road. An area and use variance were issued by the Village of Menands Zoning Board of Appeals on 06/01/2023. This application (12-220203899) was reviewed by the Albany County Planning Board in February 2022 and the determination was, '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. Review by the Albany County Department of Health for water supply, waste water discharge and other required permits.
3. A demolition review is required to ensure no hazardous materials are present.
4. Review and permits by New York State Department of Transportation for commercial property development plans involving new or modified access to a state highway, or involve any change of use or expansion of an existing development on a state highway.
5. Over 5 acres of land disturbance is expected during the development, therefore a phasing plan required.
6. The Albany County Planning Board recommends that the Village should request the applicant to pass the overall statutory test before granting the area/use variance for self-created alleged difficulty/ any demonstrate "unnecessary hardship" since the mere inconvenience of development in accordance with the permitted use in the R-1 Residential zone does not account for hardship.
7. The Village Zoning Board should consider the precedent setting nature of allowing significant area variance to the Village Code in the R-1 Residential Zone.
8. Moving the entrance to the parcel's frontage on Route 377 (Van Rensselaer Blvd) would have operational and safety benefits. It would have to cross a sizeable gully.
9. If the access stays on Route 378 (Menands Rd), NYSDOT prefers for it to stay in the existing driveway location, rather than moving it

closer to the traffic signal. The traffic assessment says they will be able to meet (but not exceed) the intersection sight distance, and it does not indicate whether that is dependent on keeping the cut slope clear of vegetation.

10. The Village should refer the project to NYSDOT for review and permitting.

11. There is inconsistency in the SEQR long form (FEAF) and the Albany County Planning Board recommends that it is corrected for coordinated review of the traffic assessment and the SEQR. The ACPB also recommends that the Village insist upon the two documents for further assessment of the impacts of the project.

12. ACPB recommends that the Village consider declaring the project a Type 1 Action under SEQRA due to the size, scope and potential impacts and recommends that the local municipality should either assign or take lead agency status to review any Environmental Assessment.'

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. Review and permits by New York State Department of Transportation for commercial property development plans involving new or modified access to a state highway, or involve any change of use or expansion of an existing development on a state highway.
3. Review by the Albany County Department of Health for water supply, waste water discharge and other required permits.

Advisory Note:

1. The Village should ensure that a demolition review is provided by the applicant to ensure no hazardous materials are present on site.

Dan Hershberg of Hershberg and Hershberg spoke to the Board about the project. The ACPB previously reviewed this project for a Special Use Permit. The Board reviewed the site plan. Beth Lacey asked if they have any opposition from the Sage Estates residents. Dan stated that there was opposition in the beginning, but some changes were made based on the neighbors' concerns and there has not been another formal complaint filed with the Village to date that he is aware of.

Travon Jackson made a motion to accept the Staff Opinion for Case #12-230904341. The motion was seconded by Beth Lacey and was unanimously approved by the Board.

Unfinished Business:

Reminder to ACPB Members that they are required to take 4 hours of training per calendar year. CDPC is having a conference on 10/20/23 at HVCC and Lynn and Brian are currently registered. If anyone else wants to attend, let Gopika know.

The countywide non-referral list has been approved by the County Legislature and will be sent to the municipalities. Gopika does not know when it will take effect and is waiting for the Albany County Attorney to get back to her.

In addition, the separate non-referral list that is specific to the Town of Colonie will be reviewed by the Albany County Legislature next month.

New Business: The next meeting of the ACPB is October 19, 2023. The deadline for municipalities to submit referrals for review at that meeting is Tuesday, October 10, 2023 (date is extended due to the Columbus Day Holiday).

Adjourn: A motion to adjourn was made by Beth Lacey at 5:21pm.

ATTACHMENT A

Muddappa, Gopika

From: Diana Hinchcliff [mailto:dhinchcliff23@gmail.com]
Sent: Friday, September 8, 2023 8:14 AM
To: PZAR
Cc: Ramundo, Lisa
Subject: Gerken Application For Special Use Permit: Rensselaerville Planning Board
Attachments: Oral Testimony for Gerken Special Use Permit 9-7-23.docx

Dear Albany County Planning Board,

Attached are my comments concerning an application for a Major Home Occupation special use permit for Christopher Gerken, 1340 County Route 351, Rensselaerville. The Town of Rensselaerville Planning Board has sent this application to the Albany County Planning Board with a request for review and a recommendation.

There is major opposition to this permit within the Rensselaerville community. Many people expressed their opposition at the public hearing on September 7. Please ask the Rensselaerville Planning Board to forward the public comments to you.

Sincerely,

Diana Hinchcliff

--

Diana M. Hinchcliff

~~dhinchcliff23@gmail.com~~

**TESTIMONY OF DIANA HINCHCLIFF AT PUBLIC HEARING OF TOWN OF RENSSELAERVILLE PLANNING BOARD
REGARDING APPLICATION BY CHRISTOPHER GERKEN, 1340 COUNTY ROUTE 351, RENSSELAERVILLE FOR A
MAJOR HOME OCCUPATION SPECIAL USE PERMIT FOR AUTOMOTIVE DEALERSHIP LICENSURE**

SEPTEMBER 7, 2023

Good evening. My name is Diana Hinchcliff. I live at 1396 County Route 351, Rensselaerville, just outside the hamlet of Rensselaerville and within the federal and state historic districts.

I submitted a long set of comments prior to this hearing. Tonight I'm going to focus on the application itself, specifically three issues:

1. There is incorrect and missing information in the application.
2. Mr. Gerken's description in his application of what he does not intend to do would disqualify him from a Major Home Occupation special use permit.
3. Mr. Gerken made a false statement in his application.

First, there is incorrect and missing information in the application and Short Environmental Assessment Form.

With respect to the application:

Page 2 requires the applicant to provide the tax map number of the property, identify the zoning district in which his property is located and list the roads bordering the proposed project. Page 3 requires the applicant to designate whether the purpose of the project is residential development, commercial, agricultural or other. Mr. Gerken did not provide any of this information. These lines are blank.

Page 3 requires the applicant to answer whether the subject property falls within 500 feet of a county highway. Mr. Gerken replied No. This is not true. His property abuts and his driveway enters onto and exits from County Route 351. County Route 351 is owned and maintained by Albany County. The answer to this question should have been Yes.

Article IX, Section 4(e) of the town zoning law requires the Planning Board to refer to the Albany County Planning Board any application for a special use permit "affecting real property within 500 feet of . . . the boundary of any existing . . . County . . .roadway". Based on Mr. Gerken's incorrect response this question, the Planning Board would be led to determine that this application does not have to be submitted to the Albany County Planning Board for review. In fact, it does.

Page 4 requires the applicant to date the application and print his name. He did not do either.

With respect to the EAF:

Page 1, Part 1 requires the applicant to provide a description of the proposed action. Mr. Gerken did not provide it.

Page 1, number 4 requires the applicant to identify the land uses on, adjoining and near the proposed action. Mr. Gerken's response is Residential (suburban). This not correct. His property is in a Rural Residential/Agricultural zone. The correct answer is Rural (non-agricultural) and Agriculture.

Page 2, number 5 asks whether the proposed action is a permitted use under the zoning regulation. Mr. Gerken responded Yes. This is not correct. The answer is No. If it were a permitted use he would not need a special use permit.

Page 2, number 9 asks whether the proposed action would meet or exceed the state energy code requirements and if it would, the applicant must describe the design features and technologies. Mr. Gerken answered Yes but did not provide a description of design features and technologies as required.

Page 2, number 11 asks whether the proposed action would connect to existing wastewater utilities. Mr. Gerken responded Yes. This is not correct. The answer is No. To my knowledge, his property is not within the Rensselaerville sewer system service area. Most likely, he has a septic tank.

Article IX, Section 4(3) of the town zoning law requires that the Planning Board determine whether an application is complete. If it is not, the Planning Board is required to notify the applicant of what information is missing. The timeframe for action on the application cannot begin and a public hearing cannot be held until it is complete. Because there was incorrect and missing information in this application and the Environmental Assessment Form, the Planning Board should never have deemed it complete.

Second, Mr. Gerken's description in his application of what he does not intend to do would disqualify him from a Major Home Occupation special use permit.

The town zoning law defines Major Home Occupation as: *"A home occupation that creates regular on-site customer or supplier traffic or employs more than one non-resident employee".*

Mr. Gerken states in his application that he will not have hours open to the public, that he will not have employees, that he will not sell or repair cars, trucks or equipment, that he will not allow public access to his motocross track and that he will not conduct public or private auctions of vehicles. He also states that he needs this permit for "garage storage" but he does not describe what he would be storing.

A Major Home Occupation, according to the zoning law, would have on-site customer or supplier traffic or employ more than one non-resident employee.

If Mr. Gerken is not going to be open to the public and not sell or repair cars, trucks or equipment or hold vehicle auctions, he will not have customers or suppliers. If he is not going to employ staff, he will not have non-residential employees.

No one needs a special use permit to store items in their garage. Anyone can store anything in their garage on their personal property.

Then why does Mr. Gerken need a Major Home Occupation special use permit? By his own admission, given the information he provided in his application, his project does not qualify as a Major Home Occupation according to the definition in the town zoning law.

The Planning Board should not approve this permit because Mr. Gerken would not fulfill the zoning law definition of a Major Home Occupation.

Third, Mr. Gerken made a false statement in his application.

The notice for this hearing states that “the applicant—Mr. Gerken—”is seeking a Major Home Occupation for automotive dealership licensure”. Mr. Gerken states in his application that he needs this permit for the “ability to keep my dealer license in [New York] State”.

New York State Department of Motor Vehicles regulations, section 78.3 (d) requires “An applicant for a dealer registration [to] have and continuously maintain a place of business in [New York] state” (my underlining).

New York State Vehicle and Traffic Law, Section 415(c) defines place of business as “a designated location at which the business of the dealer is conducted, and, in relation to a retail dealer, facilities for displaying new or used motor vehicles”.

The state Department of Motor Vehicles grants an automobile dealer license provided the licensee has a place of business that complies with the law and that, as the regulations require, is continuously owned and maintained.

Continuously owned and maintained means that an automobile dealer license is in force as long as the person holding the license owns the business or businesses for which the license is issued and continues to operate them.

Mr. Gerken owned a dealership that sold motorcycles, snowmobiles and ATVs and a distributorship for the same vehicles in Cossackie. According to the state DMV, he had an automobile dealer license for these businesses. He sold these businesses earlier this year.

Because he sold his businesses, according to the DMV, his automobile dealer license expired in June 2023.

Mr. Gerken does not have an automobile dealer license at this time despite stating in his application that he does.

Therefore, his statement in his application that he does is false.

He states in his application that he wants this permit “only so I can keep my New York state dealers retail/wholesale license until I find the right piece of property to transfer my license there to start a small auto dealership.”

Notwithstanding that, according to the town zoning law, this is not a qualified reason for a Major Home Occupation special use permit, even if Mr. Gerken did have a valid dealer license, which he does not, Department of Motor Vehicle regulations would not allow him to “transfer his license” since he is not operating a continuous business.

If he wants to own another dealership, he would have to submit a new application to the Department of Motor Vehicles. The DMV would investigate the ownership, would need proof that the zoning is appropriate

for that type of business and would determine whether the zoning is conducive to the type of business he is applying for.

The DMV would not allow a business connected with an automobile dealer license to be conducted out of one's home or on their personal property.

According to the DMV, Mr. Gerken submitted an application to change the address on his license, presumably to his Rensselaerville home address, and it was denied.

Because Mr. Gerken made a false statement about his automobile dealer license on his application, because he no longer has an automobile dealer license and because he would not be allowed to own and conduct such a business under a dealer license on his personal property, he has no need for a special use permit.

Therefore, the Planning Board has an obligation to reject and deny his application.

Muddappa, Gopika

From: Ramundo, Lisa
Sent: Friday, September 8, 2023 1:35 PM
To: Muddappa, Gopika
Subject: Fwd: Gerken Application

Sent from my iPhone

Begin forwarded message:

From: Mark Lewis [REDACTED]
Date: September 8, 2023 at 12:56:32 PM EDT
To: "Ramundo, Lisa" <Lisa.Ramundo@albanycountyny.gov>
Subject: Gerken Application

My name is Mark Lewis. I live at 5009 Delaware Turnpike (SR85) in Rensselaerville. I write urging you to reject Christopher Gerken's pending application for a major home occupation special use permit. Mr. Gerken suggests that he has no plans at present to engage in any business activities that would require such a variance. Since the permit pertains to the land and not the landowner, Mr. Gerken could easily change his plans or sell to a subsequent owner who could exploit the permit in any number of ways. Why grant a permit when it is presumably not needed? As an aside, this is a very small village already straining at the limits of vehicle traffic. Increased presence of ATVs, motorcycles, and snowmobiles plus the vehicles and trailers that transport them inevitably means traffic congestion and lots of noise. For your consideration, M. A. Lewis

Muddappa, Gopika

From: john van schaik [mailto:jschaik@nyc.rr.com]
Sent: Saturday, September 9, 2023 4:57 PM
To: PZAR
Cc: Ramundo, Lisa
Subject: Special Permit 1340 County Route 351 Rensselaerville

Dear Board, Dear Ms. Ramundo,

We write to you to express our concerns by the request of Mr. Christopher S. Gerken for a Major Home Occupation License at his property 1340 County Route 351, Rensselaerville, NY, 12147.

Mr. Gerken has said during a hearing on the permit on Sep. 7 in Rensselaerville that he has no plans to conduct any business, that he has no plan to hire any personnel and that he will have no business hours at the property. Yet, he is requesting a Major Home Occupation Special Permit.

According to Mr. Gerken, by granting this property a commercial status, he will have the "ability to keep (his car) dealer license in NY State."

Should one get a special permit if there is no intention to conduct a business? Should one allow Mr. Gerken this route so he can avoid, as he said, a long and costly process to go through the DMV to renew his now suspended car dealer license -- which he says could be reinstated once he owns a property with a commercial designation?

If both issues are of no concern to granting a license, can we please ask to write in the permit that the area is zoned for agricultural purposes and not to be used as a conduit to create any form of business or not-for-profit organization or club that would involve the use of ATVs, motorcycles and the like to race on the 40 acres or so of his land.

Occasional racing of motorbikes on the property can be heard throughout the valley -- if it remains occasional, that would probably not too much of an issue, as it is a hobby of the family's son. If this would evolve into regular use of the land as a cross track, using the permit, that would be a major noise concern for the quiet, historic hamlet.

Thank you for considering our concerns, and for your work.

Regards,

John van Schaik
Judith Matloff
1463 County Route 351
Rensselaerville
New York 12147

Muddappa, Gopika

From: Ninetta Dickerson [REDACTED]
Sent: Sunday, September 10, 2023 4:31 PM
To: PZAR
Cc: LisaRamundo@albanycountyny.gov
Subject: Christopher Gerken Special Use Permit Rensselaerville NY

We are Ninetta and Brian Dickerson and we reside at 1245 County Route 351, Rensselaerville NY.

We are writing to request that the Albany County Planning Board reject the request by Christopher Gerken, 1340 County Route 351, Rensselaerville NY, for a Special Use Permit for Major Home occupation.

According to his application, he is seeking a Major Home Occupation for Automobile Dealership Licensure.

Our home, as well as Mr Gerken's, is within a rural and agricultural zone. It is not appropriate to have an Automobile Dealership in such an area. It is very close to the hamlet of Rensselaerville, which is a Federal and State Historic District. The hamlet is also home to the Huyck Preserve and Biological Research Station. An Automobile Dealership would threaten the natural beauty and serenity of the Rensselaerville hamlet.

Even if Mr Gerken says he has no plans at this time to open a business, if his application is approved, he could at any time change his mind and establish an Automotive Dealership on his property. And because the permit is attached to the land, he could sell his property to someone who could open such a business there.

In completing the Short Environmental Assessment Form, on page 1, item #4, Mr Gerken checked only residential, but should have also checked rural and agricultural. On page 3, he stated that his property does not fall within 500 feet of a county highway, but it *does* fall within 500 feet of County Route 351.

We oppose Christopher Gerken's application for a Special Use Permit for Major Home Occupation and respectfully request that the Albany County Planning Board reject the application.

Thank you for your time.

Sincerely,
Ninetta and Brian Dickerson

Muddappa, Gopika

From: Nancy Hofstadter [mailto:nancyhofstadter@gmail.com]
Sent: Sunday, September 10, 2023 5:09 PM
To: PZAR
Cc: Ramundo, Lisa
Subject: GERKEN PERMIT APPLICATION

September 10, 2023

To members of the Albany County Planning Board:

I attended the recent Rensselaerville Town Board Council hearing last Thursday night, with many others, and want to voice my concern to you over this proposal. I strongly oppose this permit to be granted, for in doing so, it would seem that we would be supporting his efforts to manipulate the law for his personal convenience. It's rather outrageous.

Sincerely,

Nancy Hofstadter

25-year resident of Rensselaerville, NY

--

Nancy Hofstadter
[REDACTED]

5019 Delaware Tpke.
Rensselaerville, NY, 12147

~~bdmille5019@gmail.com~~

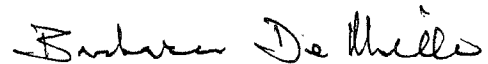
September 11th, 2023

Albany county Planning Board
Members:

I'm am enclosing my original letter to the Rensselaerville Town Planning Board opposing the Special Use Certificate sought by Christopher Gercken for his property which abuts county route 351 in Rensselaerville.

A motorcycle facility of any size or fashion is obnoxious in a residential area. Presently, on weekends and holidays, the trauma from the noise of assembled motorcycles roaming the village, often drag-racing each other, is enough to be endured.

Sincerely,

A handwritten signature in cursive script that reads "Barbara DeMille".

Barbara DeMille.

5019 Delaware Tpke.
Rensselaerville, NY, 12147

~~██~~
September 3, 2023

Planning Board of Town of Rensselaerville
Amanda Burton, Clerk

For the second time in less than a month I find myself needing to write to you with concern. I refer to the quiet preemption of one third of Main Street, without public meeting, hearing, or input, by developers intent upon creating a restaurant, necessary parking lot—or lots—and a boutique hotel, all to be offered to the public as a “wedding destination.”

My concern for this second writing is a notice for a public hearing referring to a request by a town resident for a Major Home Occupation. This Occupation to be used to establish a sales and repair operation for motorcycles and ATV's in what is now mainly a residential neighborhood.

The overriding concern here, in reference to both propositions is a lack of planning for what is currently called Urban Development. Granted Rensselaerville is not Urban. But over the years proper planning and thoughtful allowance for residential, business, and commercial interests to live reasonably among necessary domestic tranquillity is not.

In short this proposal for the motorcycle shop along with the intentions—yet to be made public—of those presently working on the creation of the wedding destination complex without explanation—is the golden opportunity for us, as a community, to take seriously what is coming upon the horizon in terms of future commercial development whether we desire it or not.

I propose that all development of town resources, particularly for commercial purposes, be put on hold until the proper local, state, and federal regulations be known and taken into account. And further that a professional “urban planner” be hired, at least on a consulting basis, to further advise us of our own best interests.

Sincerely,
Barbara DeHuelde

Gerard Wallace, Esq.
23 Methodist Hill Road
Rensselaerville, New York 12147

Kinship Care / Elder Law

OWN 845-504-6208

gwallace@comcast.net

September 11, 2023

To: Albany County Planning Board

**Re: Gerken, 1340 County Route 351, Application for Special Use
Permit to Rensselaerville Town Planning Board**

Dear County Planning Board Members,

I am writing to strongly object to the Board granting Mr. Gerken any variation on the above property's land use. This is a rural community, with an established historic district where residents enjoy the placidity, natural environment, and freedom from pollution that are hallmarks of Rensselaerville's character.

Mr. Gerken's plan, as stated in his application, is rife with falsities and misleading statements. Attached are the comments of Diana Hinchcliff (Presumably you already have received them). Ms. Hinchcliff (1396 County Route 351) has done a very complete job of accounting why Gerken's application has no legal basis and no reasonable justification.

Given the gaps in his reasoning for why he needs the Special Use Permit, I cannot help but speculate that the real reason is unstated. The only reason to apply is to eventually use the property for a dealership, once he overcomes the multiple legal obstacles. He claims that he just wants to facilitate the renewal/maintenance of his dealership license, with no intended use of it at his residence. His assurances are suspect. He should to apply to the DMV for a license once he has an appropriate dealership location. His convenience is not a legitimate reason to risk that he will at some later time, establish such a business here in our community.

At a Rensselaerville Town Planning Board meeting on September 7, a packed room filled with residents objecting to Gerken's application provided substantial reasons, both legal and personal, for the Rensselaerville Planning Board to decline the application. However, it is likely that the County Planning Board's decision will be controlling. Therefore, it is critical that the County review Gerken's application and the objections of town residents, and reach the only legal conclusion possible,

declination.

As stated, the application's justifications are doubtful. It is highly likely that Gerken is making an end run, claiming no use as a dealership, while asking for permission for such use. If he succeeds, it is likely that he will suddenly attempt to revive his DMV dealership here in our town. His purported assurances are not to be trusted. His application is probably a ruse to gain permission for use his residence as a business. His assurances otherwise cannot be the basis for an approval. There is no legitimate reason to grant his application.

Moreover, if approved, his "use" will ruin the historic district. A noisy, polluting, and trafficked business does not belong near the hamlet. Particularly a dealership whose customers will bring more street traffic and more noise - ATV's, motorcycles, and trucks to an area where Route 351 goes through the residential area of the hamlet. It will lead to the creation of a nuisance and destroy the community. You are in receipt of ample zoning and environmental reasons to deny his application. The Board must heed the community's demands and continue the quiet enjoyment and bucolic nature of our little village.

The application must be denied.

Sincerely,
Gerard Wallace
Karen Wallace

Enclosure: Rensselaerville Town Planning Board Hinchcliff's Presented
Testimony

Muddappa, Gopika

From: Victor A Schrager [REDACTED]
Sent: Monday, September 11, 2023 1:06 PM
To: PZAR; [REDACTED]
Subject: Gerken Special Use Permit Application

To the Albany County Planning Board,

I strongly urge you to **reject** the application for a special use permit for Christopher S. Gerken, residing at 1340 CR 351 Rensselaerville NY 12147.

I have three reasons for this:

1. There are incomplete and false statements in the application. For instance, when asked "Does the subject property fall within 500 feet of a.....county highway" applicant indicates no, which is false. It is part of his address!
2. When asked for Description of Project, applicant states "ability to keep my Dealer License in N.Y. State". Because his previous license has expired, and because of stipulations he has attached to his application stating what he will NOT do if granted a Special Use Permit, it is impossible for the dmV to grant him an automobile dealer license which renders the underlying premise for his applying for a Special Use Permit invalid. According to the Town Zoning Law, this is not a qualified reason for a Major Home Occupation Special Use Permit and is a deception. More worrisome is what other unspecified plans he, or subsequent owners, might have for the property if granted the Special Use Permit. Unless these plans are clearly described in a complete, truthful application, it would be an inappropriate, arbitrary and capricious exercise of your authority to grant such a request.
3. The activities that would be allowed under this Special Use Permit are inconsistent with the principles enumerated in the Town's Comprehensive Use Plan from 2007. "The principle theme of this Comprehensive Plan is to protect the abundant natural features and resources that contribute to those aspects of life in Rensselaerville most valued by residents". The inevitable increase in noise that would derive from the sales, demonstrations, and repairs of dirt bikes, ATVs, automobiles of various descriptions, off-road trucks and the like would exacerbate an already distressing situation that occurs when ATVs, dirt bikes etc that are now operated on the property create highly disturbing and intrusive noise levels that affect residents in the adjacent Hamlet of Rensselaerville and the Historic District it contains and are heard for miles around. In addition to depriving residents of the peaceful and quiet enjoyment of their homes and outdoor spaces, constant noise will have a negative impact on the efforts of several local individuals to re-vitalize the now decrepit Palmer House and Village Inn properties which will create jobs, affordable housing, and appropriate commercial opportunities.

There is no reason to depart from the appropriate and well-considered zoning regulations for this property now in effect.

Respectfully submitted,

Victor Schrager
full-time resident at 1440 CR 351
Rensselaerville NY 12147

Muddappa, Gopika

From: pennysue grimes [REDACTED]
Sent: Tuesday, September 12, 2023 7:12 PM
To: PZAR

September 17 meeting, Gerkin special use permit application in Town of Rensselaerville

As a resident living in the hamlet of Rensselaerville for more than 40 years, I am strongly opposed to a permit being granted to Mr. Chris Gherkin so he can save his auto dealership license. This request is at best a sham and seems quite devious as Mr. Gerkin apparently has not been forthcoming regarding his current business license. Regardless of his intentions, our historic Community is not suitable for this type of business. Nor is it in keeping with the preservation of agricultural resources and the rural character that I and most of my neighbors moved here for. He has other options for finding a commercial property that is not in close proximity to the hamlet of Rensselaerville.

Thank you,

Penny Grimes

Cc

Muddappa, Gopika

From: [REDACTED]
Sent: Wednesday, September 13, 2023 8:38 AM
To: PZAR
Subject: Public Comment, September 21: Special Permit, Gerken, 1340 County Route 351, Rensselaerville

Dear Ms. Ramundo:

Please forward this email to your Board:

The Gerken application for a permit to change the zoning of his property is moot. He acknowledged at the hearing of the Rensselaerville Planning Board that he was doing it solely for the sake of avoiding the inconvenience of obtaining a MVB license and, if his application was approved, he would not make any change in the use of the property. (Of course, the zoning change is potentially permanent, and a new owner could well make the approved changes.)

Regards,

Lawrence J. Stricker

(1402 CR 351, Rensselaerville, NY 12147)

September 14, 2023

To: Albany County Planning Board: Brian Crawford, Gerry Engstrom, Beth Lacey, Travon Jackson, Jeff LaFontaine
cc: Lisa Ramundo, Commissioner, Albany County Department of Public Works

From: Roswell Eldridge, Jr., Cathy [Eldridge] Suter, Ann Eldridge Malone, William Eldridge, Juanita Eldridge

**RE: Proposed Special Use Permit for 1340 County Road 351, Rensselaerville, NY
Major Home Occupation for Automotive Dealership Licensure**

Dear Members of the Planning Board,

Thank you for the opportunity to provide input on this permit application. I regret that I am not able to attend in person but understand that this input will be incorporated into the proceedings for the meeting.

I am writing to express our strong opposition to the issuance of a Major Home Occupation permit for 1340 County Road 351. We urge the Planning Board to deny the Special Use Permit outright. My mother, siblings and I (collectively the Eldridges) own the land that directly abuts the subject property to the east, and we would be impacted by the proposed use at the subject property.

We understand that the applicant has stated that they do not intend to operate a business at the property. However, this special use permit would apply to the property and there is nothing that would preclude the current or a future owner of the land to move ahead with the motorcycle sales operation. This decision has lasting implications for the community. Unfortunately, the applicant has indicated through their actions that they do not intend to be good neighbors. I appreciate their frustration with the process, but posting messages such as this on Facebook page does not illustrate good will (see last page).

This proposed use is not in conformance with the Comprehensive Plan which acknowledges the intrinsic and extrinsic value of the town's rural and agrarian character: *The hamlets and the natural and working landscape give the Town its rural quality and sense of place, shape its culture and community, help define its attractive quality of life, and thus contribute to its economic vitality.*

In developing the Comprehensive Plan, the community stated that the rural, agriculture landscape and land uses are fundamental to the Town's quality of life and economy. This does not mean that there should be no change or development- rather that "new businesses are designed to **fit into the town's aesthetic character and are protective of the environment.**"

We understand that the Comprehensive Plan alone is not law. However, it is an articulation of the community's values and importantly it is the basis for the Town's zoning ordinance, subdivision regulations, and other laws. The Plan's purpose is to guide land use decisions so that they advance the community's objectives. In requiring a special use permit for this type of use, the Town's zoning ordinance is correctly requiring greater scrutiny by the Planning Board to ensure that the use advances community goals. The fact is that this proposed use would not.

Incompatibility

Under Article IX, Section 5 which describes the criteria to be used to guide decisions on a Special Use Permit, the first criterion is **Compatibility**. It specifies that “the proposed use is of a character compatible with the surrounding neighborhood, incorporates a site design which is consistent with the character of such area of the town, **and is in harmony with the land use policies and goals as officially adopted in the Comprehensive Plan for the Town.**” The proposed motorcycle sales operation is **incompatible** with the surrounding neighborhood, and is in contradiction to the adopted land use policies and goals.

We are not opposed to investment and economic development in general, nor do we oppose all commercial development on this property. However, we are opposed to this particular use as it will have a negative impact on our property, and more importantly have a negative impact on the entire community. As you have seen and heard, the applicant has built a motorcycle track on their property already. While they have indicated that they do not intend to allow customer use of the track, that is hard to believe. Already we routinely encounter motorcycles on our property that originated from the subject property and the applicant would have little incentive to restrict motorcycles in the future. This begs the question – does the Town have the institutional capacity to enforce corrective action when there are the inevitable violations of the applicant’s pledges.

Furthermore, the noise that emanates from the relatively small number of motorcycles that are in use on the property today would almost certainly increase, echoing daily around the hills and valleys. This is antithetical to the Comprehensive Plan and would have significant negative impacts on residents and almost every other business nearby that capitalizes on the quiet rural and agricultural environment.

Process

In addition to the incompatibility of the use, there are process concerns that we have.

It does not appear that the application conforms to the requirements for a Special Use Permit. It does not appear to include the required plot plan, nor the required SEQRA Environmental Assessment Form. These must be complete before the application may be considered. We wish to see a copy of the completed application and will follow up on this.

As part of the deliberations, the Planning Board is required to take into consideration the “possible impact of the proposed project on nearby properties and uses, the requirements and purposes of this law, and the policies and goals of the Comprehensive Plan.” As mentioned earlier, this project would potentially have a very negative impact on our abutting property, as well as properties and businesses that rely on a quiet, rural setting.

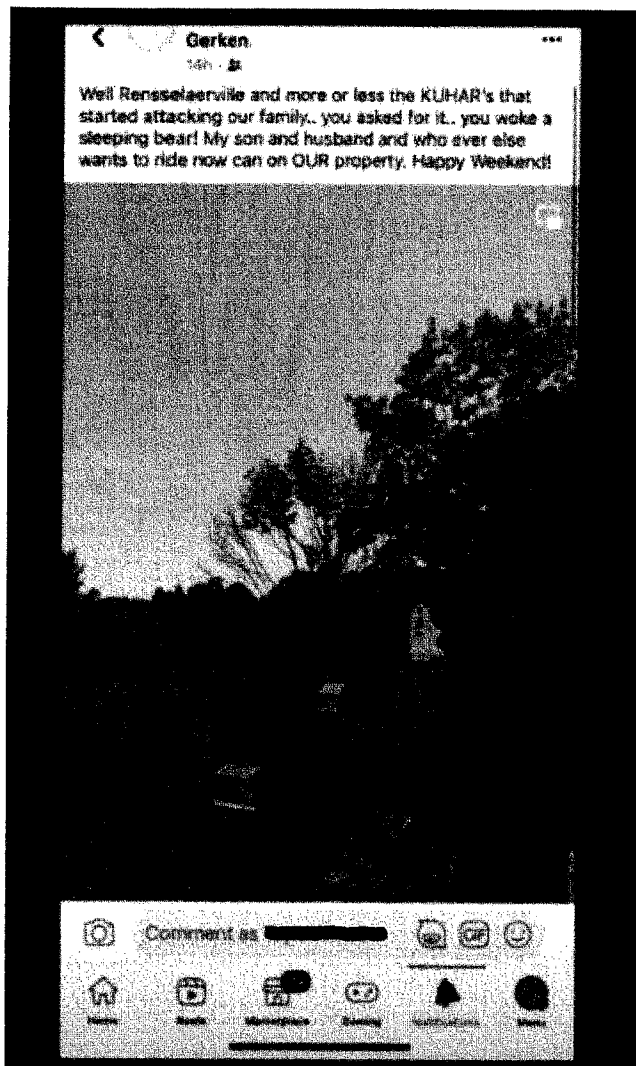
Closing

Thank you for the opportunity to provide our input on this important decision. As stated above, we believe that this particular special use application is not in conformance with the vision for the town. Furthermore, we have concerns about the process to date. Our preference would be for this application to be denied outright. However, if that decision cannot be made today, we respectfully request that the Planning Board delay a decision until a future meeting when we will have had more time to evaluate the proposal.

Respectfully,

Roswell (RJ) Eldridge

Screen capture of applicant's Facebook post



Muddappa, Gopika

From: Marilyn Oliva <marilyn.oliva.11231@gmail.com>
Sent: Saturday, September 16, 2023 6:15 PM
To: PZAR
Cc: Ramundo, Lisa
Subject: Gerken Application , Rensselaervill, NY

Dear Planning Board Members;

My name is Marilyn Oliva and I live at 464 Pond Hill Road, Rensselaerville, NY. I am writing to let you know that I opposed granting of a Special Use Permit to Christopher Gerken of 340 County Rte 351, Rensselaerville, NY for the following reasons.

THE TOWN ZONING LAW DEFINES MAJOR HOME OCCUPATION AS ONE QUOTE *"THAT CREATES REGULAR ON-SITE CUSTOMER OR SUPPLIER TRAFFIC OR EMPLOYS MORE THAN ONE NON-RESIDENT EMPLOYEE"*.

MR. GERKEN STATES IN HIS APPLICATION THAT HE WILL NOT HAVE HOURS OPEN TO THE PUBLIC, THAT HE WILL NOT HAVE EMPLOYEES, THAT HE WILL NOT SELL OR REPAIR CARS, TRUCKS OR EQUIPMENT, THAT HE WILL NOT ALLOW PUBLIC ACCESS TO HIS MOTOCROSS TRACK AND THAT HE WILL NOT CONDUCT PUBLIC OR PRIVATE AUCTIONS OF VEHICLES.

HE ALSO STATES THAT HE NEEDS THIS PERMIT FOR QUOTE *"GARAGE STORAGE"* BUT HE DOES NOT DESCRIBE WHAT HE WOULD BE STORING.

A MAJOR HOME OCCUPATION, ACCORDING TO THE ZONING LAW, WOULD HAVE ON-SITE CUSTOMER OR SUPPLIER TRAFFIC OR EMPLOY MORE THAN ONE NON-RESIDENT EMPLOYEE.

IF MR. GERKEN IS NOT GOING TO BE OPEN TO THE PUBLIC AND NOT SELL OR REPAIR VEHICLES OR EQUIPMENT OR HOLD VEHICLE AUCTIONS, HE WILL NOT HAVE CUSTOMERS OR SUPPLIERS.

IF HE IS NOT GOING TO EMPLOY STAFF, HE WILL NOT HAVE NON-RESIDENTIAL EMPLOYEES.

NO ONE NEEDS A SPECIAL USE PERMIT TO STORE ITEMS IN THEIR GARAGE. ANYONE CAN STORE ANYTHING IN THEIR GARAGE ON THEIR PERSONAL PROPERTY.

THEN WHY DOES MR. GERKEN NEED A MAJOR HOME OCCUPATION SPECIAL USE PERMIT?

BY HIS OWN ADMISSION, GIVEN THE INFORMATION HE PROVIDED IN HIS APPLICATION, HIS PROJECT DOES NOT QUALIFY AS A MAJOR HOME OCCUPATION ACCORDING TO THE DEFINITION IN THE TOWN ZONING LAW.

THE PLANNING BOARD SHOULD NOT GRANT THIS PERMIT BECAUSE MR. GERKEN WOULD NOT FULFILL THE ZONING LAW DEFINITION OF A MAJOR HOME OCCUPATION.

Thank you for your time.

Sincerely, Marilyn Oliva

Muddappa, Gopika

From: Tom Gilroy [REDACTED]
Sent: Monday, September 18, 2023 11:26 PM
To: PZAR
Cc: Ramundo, Lisa
Subject: Opposing Application for Special Use Permit To Gerken Property In Rensselaerville

Dear Planning Board Members,

My name is Tom Gilroy and I have lived on Pond Hill Road in Rensselaerville, NY for almost 20 years. The purpose of this letter is to convey to you my **STRONG** opposition to granting a Special Use Permit to Christopher Gerken of 340 County Rte 351 in Rensselaerville.

My reasoning is simple, and applies to a strict definition of the law. There were many false statements made by Mr Gerken in his application as well as his presentation to our Planning Commission—for example that he merely wanted to ‘extend’ his commercial license when it has in fact expired—but I assume other members of my community have written to you about those.

The Town Zoning Law defines ‘Major Home Occupation’ as one *‘that creates regular on-site customer or supplier traffic or employs more than one non-resident employee.’* In both his application and presentation, Mr Gerken claimed he **will not** have hours open to the public, **will not** have employees, **will not** sell or repair cars, trucks, or equipment, **will not** have supplier traffic, and **will not** allow public access to his motocross track (**more on this below**).

If Mr Gerken is telling the truth, he has in his own words proven he has no need for a Special Use Permit to run a Major Home Occupation. He has stated in print and in person that literally nothing he plans to do on his property requires this permit. Therefore the request should be denied.

I do find it odd that Mr Gerken volunteered in our local Rensselaerville Planning Board meeting that despite not intending to operate a commercial business he did in fact house over 30 vehicles of various types on his residential property—many of them directly related to his former commercial enterprise elsewhere.

When the Gerkens made their request presentation to a packed Planning Commission meeting, many on the board and in attendance claimed they had never seen such turnout, signifying the importance of this issue to my community. The ratio was about 50 to 1, with those opposed in the overwhelming majority. Rather than heed the concerns of their new neighbors, the Gerkens told the room their family was ‘from here. And if you all don’t like what I’m trying to do, you should all go back to where you came from.’



Much ado about faux auto dealer in
Rensselaerville
altamontenterprise.com

The meeting was followed by a string of aggressive posts by the Gerkens on FACEBOOK targeting the community, including one advertising the establishment of a fictitious 'DEMOCRATIC CRACKHOUSE OPENING in RENSSELAERVILLE,' followed by another attacking a neighboring family that goes back generations in Rensselaerville, claiming 'you have released a BEAR' and inviting any person in the area to come and ride motorcycles and ATV's on their motocross track at any time. This exact use of the property was the primary complaint at the Planning Board meeting, (though there were others, for example '*why is it the government's responsibility to create a loophole for a private businessman?*'). So the very action the community complained about and the Gerkens swore they'd never allow was literally offered up by them as a way to harass their neighbors almost immediately after the meeting.

I realize this observation is not founded in legal concerns and certainly the Gerkens have a right to free speech, but as a resident I'd be hesitant to grant much leeway in an unpopular request for a zoning variance that is in fact unneeded when such hostility is the byproduct. I'm saddened by the Gerkens reaction.

I don't know the Gerkens but I've heard their son is a delightful and respectful young man. I wish them well in their new residential home in town and encourage them to seek commercial property elsewhere that will suit their business needs within the existing law and will not inspire such discord in our usually calm and peaceful rural community.

I hope The Albany County and Rensselaerville Planning Boards see fit to deny this Special Use Permit since it is so clearly and demonstrably opposed by the majority, and the application itself has not established any actual need for such special consideration.

Thank-you for your time and service.

Tom Gilroy
Rensselaerville, NY

Thomas Gilroy
[REDACTED]
[REDACTED]

In the future everyone will be anonymous for fifteen minutes.

Declan Coyne and Jessica Regan
69 Methodist Hill Rd
Rensselaerville, NY 12147

18 September, 2023

Albany County Planning Board
449 New Salem Road
Voorheesville, NY 12186
PZAR@albanycountyny.gov

Dear Albany County Planning Board Members,

We are residents of Rensselaerville, and write to express our concerns regarding the permit application submitted by Christopher Gerken at 1340 County Route 351, Rensselaerville. Mr. Gerken has explained that he is requesting this permit in order to temporarily register his automotive dealership license at this address, but that he does not plan to open a business at this location. However, if this permit were granted, it creates the possibility that a business of this type could be opened there, if Mr. Gerken changed his mind about the desired location for his business, or if Mr. Gerken sold the property to someone interested in operating this kind of business. A business of this type would not be appropriate for the location, as it would violate town zoning laws and would also be in conflict with the town's goals as stated in its most recent comprehensive plan.

Mr. Gerken's property is zoned Agricultural/Rural Residential, a designation defined in town zoning laws as intended to "protect agricultural land," "encourage a development pattern that keeps agricultural land in productive use," "protect and maintain the rural character, including open space and scenic resources of the town," and "discourage land uses that are not compatible with agricultural uses." (p. 29, Section 4.B) A commercial business that has

no agricultural purpose, and that would require further clearing of land, is incompatible with this zoning designation. Additionally, while the Short Environmental Assessment Form submitted with the application describes this and the surrounding land uses as “Residential (suburban)” [Question 4], that statement is inaccurate; this and surrounding land uses include Rural (non-agriculture), Agriculture, and Forest. An automotive dealership would be entirely inappropriate in this setting.

Rensselaerville’s Adopted Comprehensive Plan further clarifies that the town’s goals are centered on maintaining the rural, agricultural character of the town. The Plan notes that “protection of rural character and the Town’s environment is a primary goal of this comprehensive plan,”(p. 5) and that community decision-making is guided by “the valued attributes of rural character; active, sustainable agriculture; scenic beauty; cultural and historic richness; a healthy environment; diverse housing resources; and economic opportunity.” (p.11) It further notes that commercial development “is concentrated in and around the hamlets, and in existing commercial areas. New businesses are designed to fit into the town’s aesthetic character and are protective of the environment.” (p. 12) An automotive dealership at this location, which is outside of any existing commercial center, would be highly impactful on the local environment, and would interfere with the historic, rural, and scenic character valued by the town.

Granting this permit would allow for the creation of a business that is inconsistent with the community’s rural, agricultural character, and with zoning rules designed to maintain that character. We therefore respectfully urge the Planning Board to reject this permit.

Thank you for your consideration.

Sincerely,

Declan Coyne and Jessica Regan

Muddappa, Gopika

From: Mame Kennedy <mamekennedy@gmail.com>
Sent: Tuesday, September 19, 2023 3:00 AM
To: PZAR; Ramundo, Lisa
Cc: shantanu@rensselaerville.org; muddappa100@yahoo.com
Subject: Application for Major Home Occupation change of Zoning in Rensselaerville NY

Dear Planning Board Members,

Thank you for the time and effort you commit in service of our municipalities.

I oppose the application of a special use permit by Christopher S. Gerken, residing 1340 CR351, Rensselaerville, NY 12147.

There are several points I would like to make to qualify my opposition.

To put it in simple terms- zoning exists for a reason. This application for change of use is the ultimate example why.

Mr. Gerken stated in his application and at the Rensselaerville Town meeting that the Special Use Permit was only so "I can keep my NY State Dealers Retail/Wholesale License until I can find the right piece of property to transfer my license to start a small auto dealership." This statement is disingenuous at best while also problematic for a number of other reasons.

Mr. Gerken's license is not currently in effect- it expired sometime in June. During the months leading up to its expiration Mr. Gerken acquired four properties that are also similarly zoned in Schoharie county. A couple of these parcels exist in locations that would be more suitable to a commercial venture. These properties were purchased between March & May 2023- well in advance of the expiration of his license. Why then not choose one of his recently purchased properties for his temporary use of land to hang his license/hat?

Were this Special Use Permit to be granted it could exist on the land/property in perpetuity. The Permit sticks to the land and not the person. Mr. Gerken could sell his property, move on and the permit would carry over to the next owner. It is impossible to imagine what a future owner may have in mind- however the possibilities are endless- small strip mall, auto dealership or MotoCross/ Monster Truck track. The toothpaste will already be out of the tube. The commercial use of this land will be in **direct conflict of the "Comprehensive Plan's commitment to preserving the nature of the Historic Hamlet"** and environs ie development of small parcels of open land surrounding the Hamlet, noise, health & safety issues, increased traffic, diminished quality of life and loss of biodiversity. **Why issue a blank check forever for the unknown?**

The historic hamlet of Rensselaerville was named as one of Seven to Save by the Historic League of New Yorks State. Please see a feature article published in the Altamont Enterprise in 2010.

The Rensselaerville Comprehensive plan clearly states that it **"is to protect the abundant natural features and resources that contribute to those aspects of life in the Hamlet & town of Rensseelaerville most valued by its residents. The residents & landowners have been consistent in their overwhelmingly support for a plan to protect these resources."**

"The Town of Rensseleaerville is treasured by its residents as a place where landscape, history and community are tightly intertwined. For over 200 years the Town has been distinguished by its location in the special environment of the Helderbergs. Settled after the American Revolution, as part of the Van

Rensselaerville patroonshipp, the Town was incorporated in 1792, and quickly grew into a typical arrangement of small commercial centers- hamlets surrounded by farms. This agricultural settlement pattern survives to this day. It is a prized aspect of town life that we are committed to preserving. Our quality of life is the guidepost we use to direct our community decision making process, as defined by the valued attributes of rural character; active sustainable agriculture; scenic beauty; cultural and historic richness and healthy environment." "The Town of Rensselaerville is committed to protecting the land and preserving our heritage of small densely populated hamlets surrounded by large parcels of open spaces." "The Town & Hamlet has an extraordinary stock of historic buildings, many unpaved roads and scenic by-ways, beautiful open vistas, hills woodland, streams and creeks with natural habitats that provided a rich biodiversity."

Considering all the above points, I see no reason to depart from the appropriate and well-considered zoning regulations for this property now in effect. **I oppose the approval of this application and urge the Planning Board to reject it due to the potential serious negative long term impact on the Hamlet & Town.**

Thank you for your kind consideration.

Respectfully submitted,

Mame Kennedy Schrager

1.
 -
 -

Muddappa, Gopika

From: Karen Brown <karen@t...allbrown.com>
Sent: Tuesday, September 19, 2023 12:02 PM
To: PZAR
Cc: John Linnell
Subject: Thursday, September 21, 2023 at 3:30pm. Gerken Hearing/Rensselaerville NY

Karen Brown + John Linnell
1250 Route 351
Rensselaerville NY 12147

Hello

We have been at our residential address for the last 23 years..

We would like to voice our opposition to an ATV track and dealership being applied for license at a residential property next door to our house .

The hamlet of Rensselaerville is a quiet rural residential community. It is home to many kids and is a rich and pristine natural environment that supports peaceful living. The land is flat in our area and sound carries loudly. At our property the land supports many endangered plants, animals and amphibian species. We would like Rensselaerville to remain clean, quiet and unspoiled. This proposed license for an ATV dealership and track will be noisy, disrupt the peace for everyone living there and damage the environment and water table which contains many protected species as ATV use chews up the land. It also could be sold on to a future buyer to do what they want with commercially, without the community having any say on what that business might be. We are worried about noise, commercial traffic, a proposed test track and oil and gas effluence from the vehicles seeping into our land.

An ATV dealership would be better suited in a more commercial area setting within a bigger town with a greater population, not in a small quiet rural one. The noise from an ATV dealership and track will overwhelm the hamlet. While we support our neighbor in their business ambitions, they should not be situated at a residential address..

Thanks

Karen Brown and John Linnell

Muddappa, Gopika

From: [REDACTED]
Sent: Wednesday, September 20, 2023 9:31 AM
To: Muddappa, Gopika
Subject: Gerken Special Use Permit

To Whom It May Concern,

We are writing in support of Christopher and Jennifer Gerken in regards to their request for a Special Use Permit.

The Gerken family has been friends of ours for the past six years, after they moved into our school district. Our children became friends in school and we also frequented their former dealership in Cocksackie. They have been nothing but kind and fair to us in both our friendship and in business dealings.

They have worked hard to make their house a home and have made multiple improvements on their property, with excellent taste and consideration of their neighbors. They have been known to share even the simple things, such as their chicken's eggs and apples from their trees to both neighbors and friends. They proudly support small local businesses. We have enthusiastic appreciation for people like the Gerkens, who understand how important it is to give local support.

Thank you for your time,

Erik and Jennifer Nicholzen

Muddappa, Gopika

From: Sarah Nelson [REDACTED]
Sent: Wednesday, September 20, 2023 9:53 AM
To: PZAR
Cc: Ramundo, Lisa
Subject: Gerken special permit application/Rensselaerville

To the Albany County Planning Board:

I am writing to express my concern about the special permit being requested by Christopher Gerken to operate a motorsport/automotive dealership at his home at 1340 CR 351. Such an operation would be out of step with the rural/agricultural nature of the community, which is centered around the quiet historical district of Rensselaerville, located less than a mile from Gerken's residence.

I am opposed to this special permit because it would radically alter the character of this small community, especially if the dealership were in any way to entail test-driving the vehicles on the track that Gerken has constructed on the hillside above CR 351. In addition to noise pollution, which is experienced by everyone in the valley whenever the track is used, I am most concerned about run off from gasoline, oil, etc (which would be an issue at the garage as well); and soil erosion coming off the hill, which no longer holds soil and water as well as the former hay field did. If this issue has not been addressed in the permit application, I ask you to investigate it. If the question of test-driving has been addressed, I would like to know who will monitor and enforce soil quality, etc.

Gerken has stated that he does not actually intend to open a dealership on his property, but the stakes seem too high to issue a special permit that is inharmonious with the community, just so he will not have to go to the time and expense to re-apply at a later date.

The project is inconsistent with the character of the community and does not meet existing land use zoning, so I ask that you deny this special permit.

Sincerely yours,
Sarah Nelson Weiss
1358 CR 351
Rensselaerville, NY 12147

Muddappa, Gopika

From: Ted Marks <marksent@att.net>
Sent: Wednesday, September 20, 2023 9:02 PM
To: Muddappa, Gopika
Subject: Chris and Jen Gerken

To whom it may concern..

My name is Ted Marks..my wife Ellen and I are the owners of Marks Enterprises, Inc., an established business of 40 plus years outside of Cobleskill New York.

We have known Chris and Jennifer for nearly 30 years and know them as a wonderful couple, great parents and upstanding community members.

They have, through hard work and good fortune, been able to succeed in their business ventures. With this success they have always acquired beautiful properties and provided for their family's comfort as well as the needs of others.

We know them as a God loving and serving couple..always conscience of their neighbors and their needs as well as their privacy. Great addition to any neighborhood!

We've known their children Nick and Maddy since they were born. We know them as respectful, fun loving, hard working and loving.

All in all the Gerken family would be an asset to any community.

Cordially,

Ted & Ellen Marks

Muddappa, Gopika

From: Susan Cipolla <susan.cipolla@gmail.com>
Sent: Wednesday, September 20, 2023 9:21 PM
To: PZAR; Ramundo, Lisa; <1981lisa@gmail.com>
Subject: Application for Major Home Occupation change of zoning in Rensselaerville, NY.

Dear Planning Board Members,

I oppose the application of a special use permit by Christopher S. Gerken, residing 1340 CR351, Rensselaerville, NY 12147.

This permit would put the Rensselaerville land use Comprehensive Plan at risk. The Hamlet is a treasured by its' community and respects the vision of the Comprehensive Plan. Please consider the potential damage to this historical hamlet if the agricultural land is granted the ability to be used commercially.

Mr. Gerken has acquired other properties that would be more suitable for this permit. His more suitable properties have no neighbors and no risk to the nature of a historical hamlet.

I hope the planning board considers the outpouring of residents opposing this application. The intent of opposition is based solely on maintaining the integrity and historical nature of place we all treasure, Rensselaerville.

Thank you for your time and dedication.

Respectfully,
Susan Cipolla

Nadine Bechle
1054 County Route 351
Rensselaerville, NY 12147
518-817-3977

September 21, 2023

To the Albany County Planning Board,

Due to a previous commitment I am not able to attend the meeting regarding Chris and Jennifer Gerken's request for a special use permit. I feel strongly about my position and wanted to put it in writing so that my voice could be heard.

I have found Jen and Chris to be an asset to our community, a good neighbor and friend. They maintain a beautiful home, which appreciates the value of all the properties that surround them as well as the surrounding community. (I am also a local realtor so I can speak from my profession). They are hard working and meticulous people and I would expect the same from them with everything they do. On an even more personal note, I lost my husband over four years ago. I met Jen and Chris shortly thereafter. They and their children have been there for me 24/7 regardless what I've needed help with. They check in regularly to make sure I'm ok and share anything of concern that would effect my well being. As a resident of this community for over 20 years, good neighbors like this are hard to find. I can count on one hand the people that have reached out to me since my loss to offer support and help. They are upstanding citizens, people who stand by their word, who pay their bills, more than their fair share of property taxes and are making a reasonable request as to why they are applying for this special use permit.

I am not sure why there is such an issue with their request. This is not something that will create an eye sore like other local businesses or a disruption to the area. They live on over 40 acres and own one of the most beautiful properties in this community. Why would they destroy all of their hard work. They are taking the proper steps to apply for this legally, so please explain to me from the boards perspective the issue.

There an underlying agenda that had been avoided for public discussion but was really addressed at the Town of Rensselaerville Planning Board meeting on September 7th, where the Gerken's were attacked by people who didn't even know them. They have an issue with a track on the property that is used by their son to ride his dirt bike, which the time of day has always been taken into consideration as not to disturb the neighbors. The same ones who have no problems when they need to use the Gerken's land for their own personal needs. There are others who have spoken out regarding the special use permit who have a conflict of interest as well as would like to have a say in how and what they can do with their property. To take it a step further this crowd accused them

of lying, being deceitful and questioned their integrity beyond approach. What an insult from people who don't really know them.

It may be worth the boards time to take a ride out to our beautiful country side and just see for yourself some of what surrounds this property. You will surely see things that can be classified as a eye sore, especially the one directly across the street from theirs.

I'm sorry I could attend, but I hope my comments will be taken into consideration.

Thank you in advance for your time.

Regards,

A handwritten signature in cursive script that reads "Nadine Bechle".

Nadine Bechle

Muddappa, Gopika

From: jennifer gerken [REDACTED]
Sent: Thursday, September 21, 2023 12:16 PM
To: Muddappa, Gopika
Subject: Fwd: Gerken photos

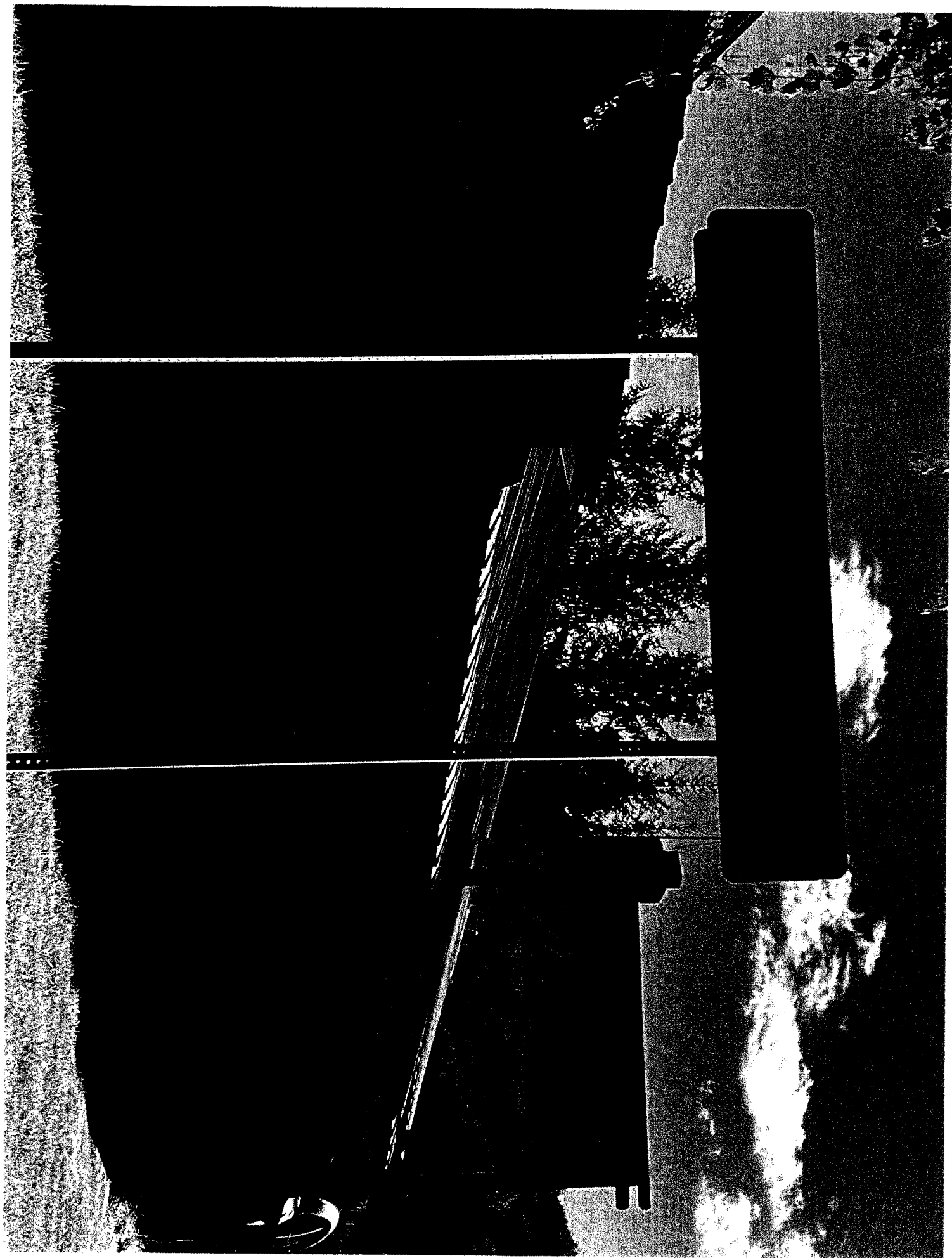
Sent from my iPhone

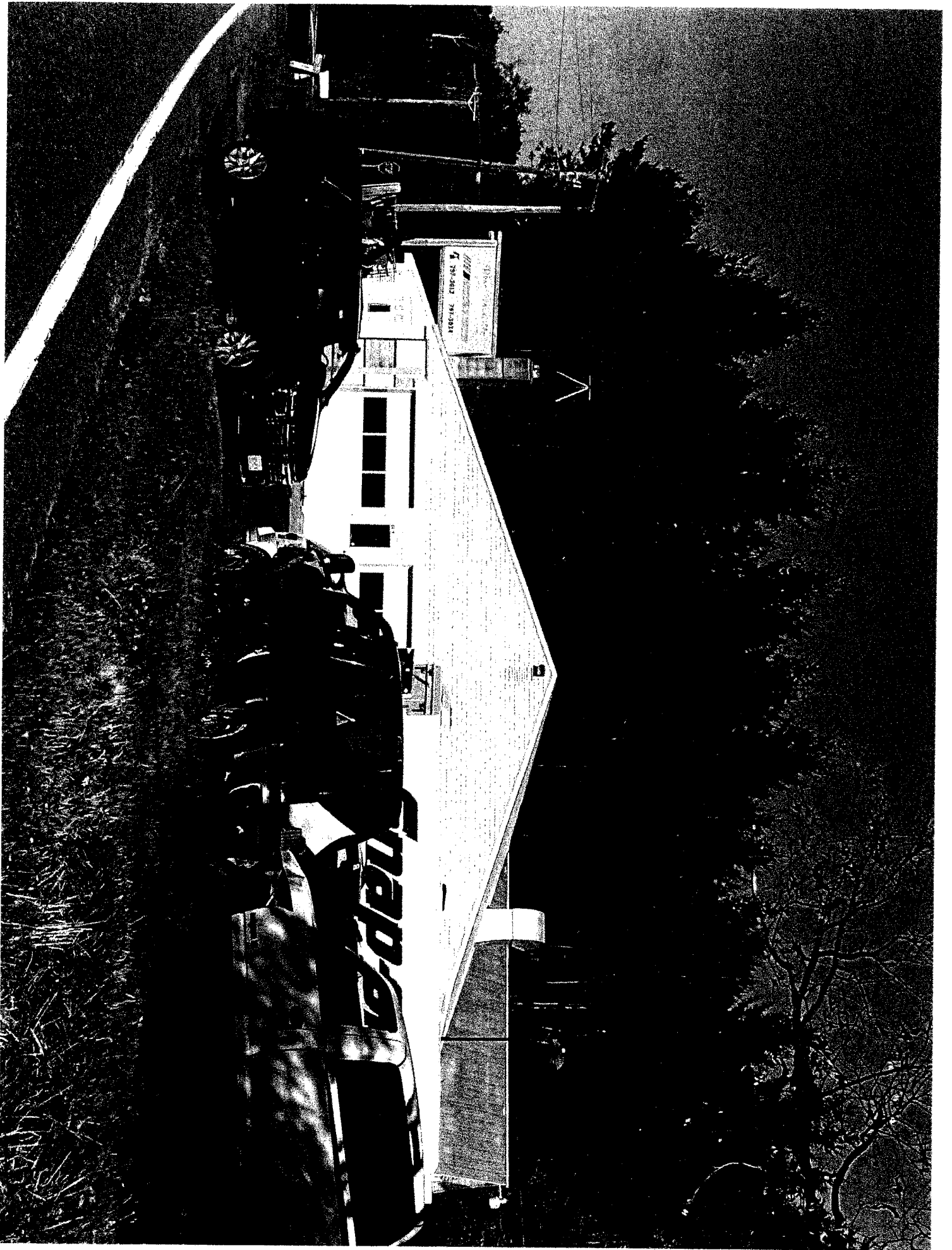
Begin forwarded message:

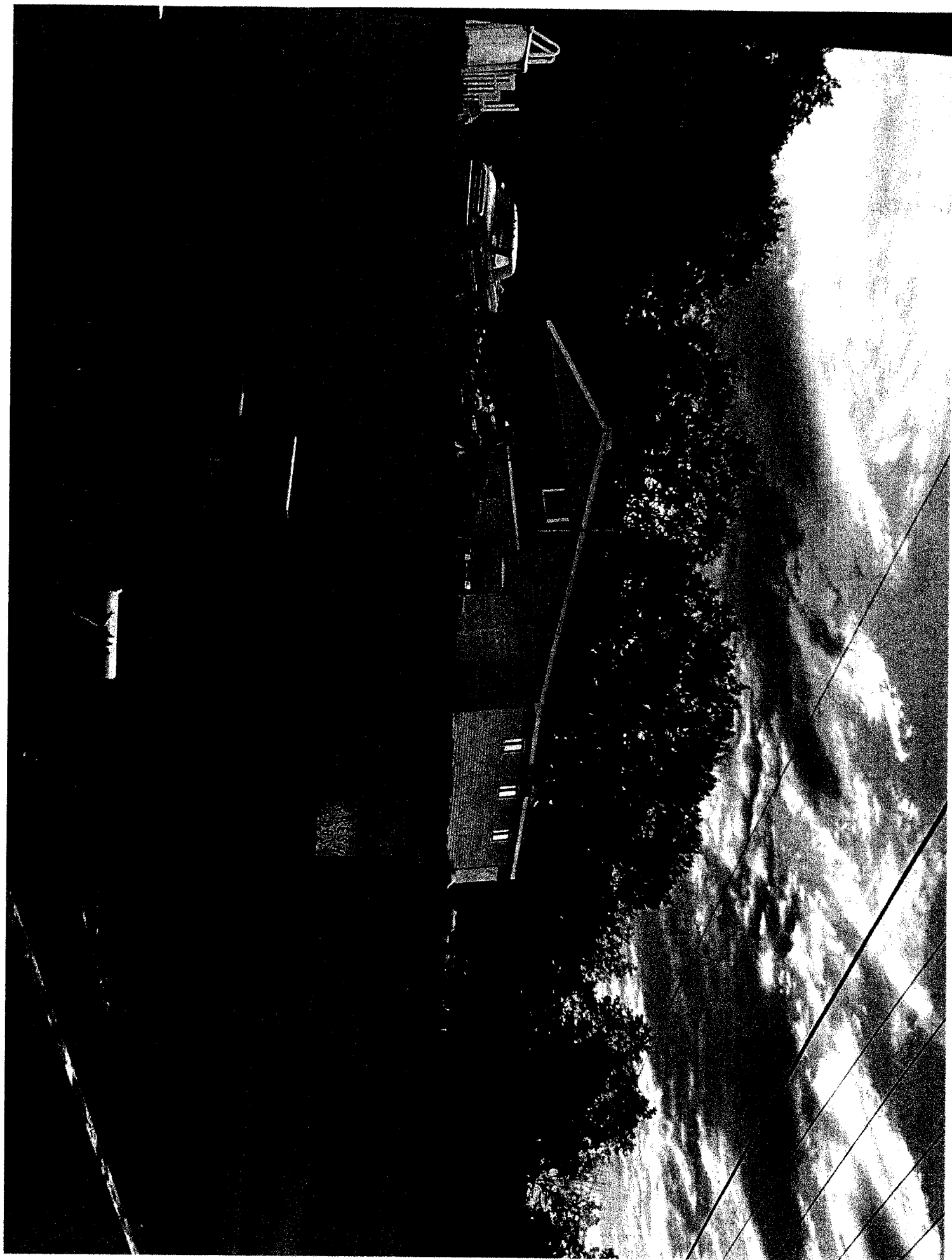
From: jennifer gerken [REDACTED]
Date: September 21, 2023 at 6:26:38 AM EDT
To: Amanda Burton [REDACTED], [REDACTED]
Cc: Chris Gerken [REDACTED]
Subject: Gerken photos

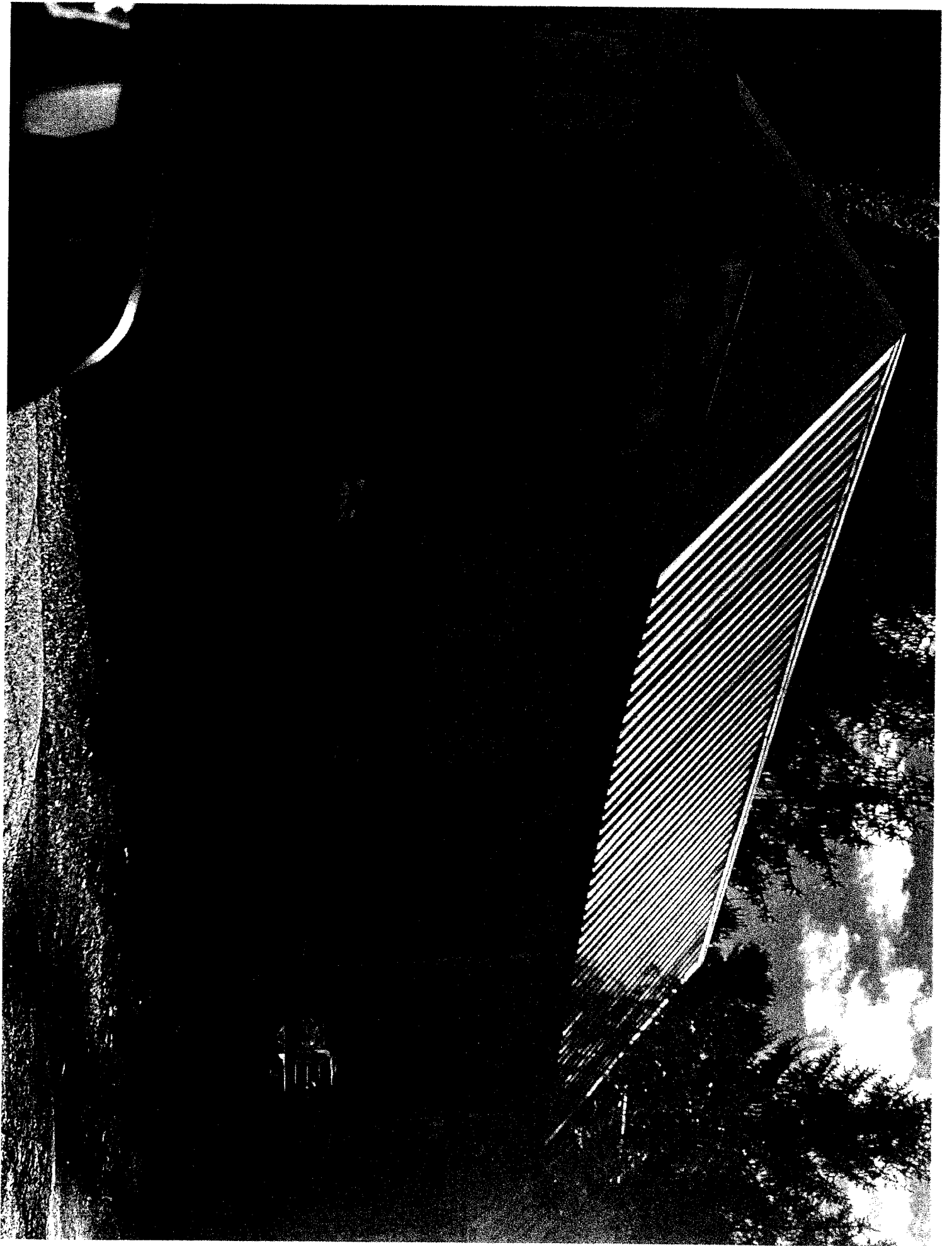
Two different repair shops with tires, vehicles, debris, chemicals, oil, gasoline etc.. within a quarter mile of the village. One located on Methodist hill road and the other a quarter mile from my home on Route 351.

Sent from Mail for Windows









Muddappa, Gopika

From: Brendan Mernin [REDACTED]
Sent: Thursday, September 21, 2023 2:59 PM
To: PZAR; Ramundo, Lisa
Cc: aburton@rensselaerville.com; Victoria Kraker
Subject: Gerken Application; Rensselaerville NY

To the Albany County Planning Board:

Below is the text of my email to the Rensselaerville Planning Board regarding the recent Gerken application for a zoning variance, which I oppose. Thank you for your time and consideration.

Brendan Mernin
Rensselaerville NY

Hi Amanda,

I know that it's last minute, but I did want to send a quick email about the Gerken application. If it is possible to share these thoughts with the board, then excellent.

I am a property owner at 1421 CR 351. I was on the list of abutters notified of the application by certified mail. I am only recently getting up to speed on the details of the application and did not want to weigh in based on rumors.

In my opinion, I do not think that the Town should approve the application, for a few reasons.

1. The ATV track will impose a cost in noise on neighbors within earshot. This noise will negatively affect the quality of life and business in the hamlet.
2. There is no need for this business in this location. The Town benefits hardly at all from its existence.
3. The existing zoning regulations took a lot of effort to be agreed upon, and so should be followed.
4. The use of the property for an ATV track could degrade the soil and lead to erosion, which would affect downhill neighbors (like me).
5. The depth and vehemence of the opposition to this plan should be sufficient indication that it is a bad idea.
6. The application itself was filled out and filed in what appears to be as little detail as possible, leading me to believe that the Town may not be able to trust the applicant to abide by the conditions of any permit issued.

For these reasons, it is my belief that the Town should deny the Gerken application.

Thank You,
Brendan Mernin
[REDACTED]
1421 CR 351
Rensselaerville NY 12147

TO: Albany County Planning Board
Lisa Ramundo

FROM: William and Jeannette Rice
31 Rice Rd
Rensselaerville, NY 12147

RE: Public Comments
Special Use Permit, Mr. Christopher Gerken, Rensselaerville, NY

DATE: September 21, 2023
Hearing, Albany County Planning Board

My husband's family has lived in the community of Rensselaerville since 1850. I arrived in 1964 and I have served on the Town of Rensselaerville's Comprehensive Land Use Committee, had input to the Zoning Laws and served on the Zoning Board of Appeals.

The Legal Notice published for the Planning Board of the Town of Rensselaerville called for a public hearing on September 7, 2023 for a **Special Use Permit** for Christopher Gerken who is seeking a **Major Home Occupation automotive dealership licensure**.

This application should be denied based on the following:

1. Town of Rensselaerville Zoning Law:

Mr. Gerken's proposed Special Use Permit for a Major Home Occupation for automotive dealership licensure based on the definition of Major Home Occupation and the Purposes of Districts found in Section 4 of the Zoning Laws show his proposal is in conflict with town zoning: (Bold and underlined, mine.)

Home Occupation: Any nonresidential use that is secondary and clearly subordinate to an existing residential Use, conducted within a dwelling unit or an accessory structure by a permanent resident of that dwelling unit, **which does not change the residential character of the dwelling unit or vicinity. Where no non-resident employees, customers or clients enter the premises, and where no signage, or exterior storage of products or equipment are required by zoning permit.*

Clearly, an automotive dealership will adversely impact the Agricultural/Rural Residential character of the vicinity: destruction of farmland, odor, noise, increase in traffic, loss of scenic resource and open space...

*Major Home Occupation: A home occupation that **creates regular on-site customer or supplier traffic** or employs more than one non-resident employee.*

Agricultural/Rural Residential (A/RR): The purpose of this district is to protect agricultural land and to encourage a development pattern that keeps agricultural land in productive use as well as **to protect and maintain the rural character, including open space and scenic resources of the town. A further purpose is to discourage land uses that*

are not compatible with agricultural uses. Rather, the purpose of this district is to promote agriculture as a component of the local economy, to protect the Town's natural resources and maintain native vegetation, and to maintain low density residential neighborhood development patterns outside of the hamlet areas.

Mr. Gerken's property is in Agricultural/Rural Residential (A/RR) district, not a residential (suburban) district as he incorrectly answered on the Short Environmental Assessment Form. Mr. Gerken also declares in question 3 that the total acreage of the site of the proposed action to be 44.23 acres and the total acreage to be physically disturbed will be 44.23 acres. Clearly, this proposed business does not comport with our zoning districts.

2. The proposed Major Home Occupation automotive dealership licensure does not comport with community character or existing land use as described in the Town of Rensselaerville's Comprehensive Land Use Plan.

To summarize, the "Overall Vision for Town of Rensselaerville" p 11, 12:
The landscape, history and community are tightly intertwined and treasured by its residents; has been distinguished by its location in the special environment of the Helderbergs; hamlets surrounded by farms. This agricultural settlement pattern survives to this day. The valued and prized aspect of town life that we are committed to preserving: rural character; active, sustainable agriculture; scenic beauty; cultural and historic richness; a healthy environment.

The Town of Rensselaerville is committed to protecting the land and preserving our heritage of small densely populated hamlets surrounded by large parcels of open spaces.

In brief, I refer to the following found on pages 14 and 15 of the Comp:

Natural Resources

The Town of Rensselaerville is rich in natural resources. Its residents and visitors know, respect, and protect the land, water, air, wildlife, rural character, scenic views, and its mineral, groundwater, and surface water resources. Our natural resources are an essential part of our rural character, quality of life, and economic viability. Protection and wise stewardship of those natural resources through preservation of natural habitats, careful management of land/water resources, and conservation of existing agricultural lands is a high priority for the Town.

Historic Character

The Town of Rensselaerville cherishes its long and proud history. The residents, through many of their civic/volunteer organizations, work hard to retain our community's historic character because we recognize, as did our predecessors, the importance of our rich, rural, agricultural heritage. We value the special beauty and splendid, historic landscapes; all of which continue to attract people to our town and contribute to the value of our property and to our quality of life.

The Town's extraordinary number of historic buildings -- some on the State and National Registers of Historic Places --, scenic roadways, places of worship, burial grounds, stone walls, and streams are integral to its beauty, sense of place, sense of community, economy, and attraction as a visitor destination and residential home market.

Residents and businesses are supportive of adaptive reuse of historic structures and of new residential and commercial development that minimally impacts historical, architectural and rural character. We support the traditional settlement pattern of our hamlets, farms, open spaces and beautiful country roads and byways. The Town continues to encourage the identification and maintenance of the built symbols of our heritage, including barns and other buildings.

We have historical societies that assist our local schools in educating our young and advising new residents about our historic character so that they too can appreciate and be better stewards of this important aspect of our community.

The proposed SUP is also near or in an Archeologically Sensitive Area as identified in the attached map found in the Town of Rensselaerville Comprehensive Plan. Mr. Gerken failed to respond to that question on the Short Environmental Assessment form, question 12 b.

Mr. Gerken's application for a SUP automobile dealership licensure is clearly in conflict with the community vision and character as described in the Comprehensive Plan, a vision that long-time residents and new-comers aspire to.

3. The Special Use Permit Application and Short Environmental Assessment Form contain answers that are incomplete, incorrect and sometimes illegible. These forms are legal documents and the applicant must be responsible and thorough.

4. On page 3 of the SUP Application, Description of project: (Mr. Gerken answers) Garage Storage, Ability to Keep my Dealer License in N.Y. State, On.. (illegible). **What do these answers have to do with a Special Use Permit Application for Major Home Occupation automotive dealership licensure!**

Respectfully,
Jeannette P Rice

Tracy Boomhower
573 Cedar Lane
Greenville, NY 12083
(616) 455-3404

Albany County Planning Board
c/o Gopika Muddappa

RE: Gerken Special Use Permit

Dear Chairperson and Planning Board:

I'm writing this letter not as a resident of Rensselaerville, but rather a Realtor who works in that area consistently and has for over the last 20 years.

One thing that has been mentioned is the potential decrease in property values if this special use permit is allowed. I know what Mr. and Mrs. Gerken paid for the property that they purchased and the improvements they have made to the property since they purchased it. All have made a significant positive impact on the surrounding homes.

The Gerkens have placed two Amish built buildings on their property. They are attractive and well maintained. The entire property is nicely landscaped. Surrounding homes have benefitted from this home's sales price as well as the continual maintenance and improvements. In fact, the home directly across the street sold for significantly more than it would have had not been for the upgrades to the Gerken property.

I hope that the Albany County Planning Board looks at the merits of this application and makes a determination solely on those merits. Looking deeper at those voicing opposition to this special use permit would reveal several conflicts of interest in my opinion.

Thank you for taking the time to read this letter.

Sincerely,



Tracy Boomhower, Broker/Owner
Country Views Realty