

**TOWN OF LIBERTY  
PLANNING BOARD MINUTES  
July 7, 2009**

**MEMBERS PRESENT**

Diane S. Deutsch, Chairman  
Ray Kelly  
Lynn Dowe  
Dean Farrand  
John Van Etten  
Peter Stettner, Alternate  
Denise Birmingham, Alternate

**ABSENT**

Walter F. Garigliano, Town Attorney,

**ALSO PRESENT**

Mark Van Etten, Building CEO  
See attached sign in sheet

---

**CHAIRMAN DEUTSCH CALLED THE MEETING TO ORDER AT 7:00 PM.**

**Machne Shar Hatora**  
Special Use Permit  
85 Ferndale-Loomis Road  
SBL: 35.-2-18  
Zone: RD

Bill Sattler of Alder Engineering appeared for this project. The first thing discussed was the lighting. It shows the wrong type of lighting on the plans. The Board requested that it be changed to shoebox style with the light aiming down towards the ground. Bill Sattler said it would be changed. A question was asked by John Van Etten as to why there was a three inch crown in the sidewalk. Bill Sattler said it was to prevent puddling. Dean Farrand asked how they were going to prevent parking along the roadway in the camp, which is for emergency/fire use. Bill Sattler said he didn't believe there would be very many cars. Three maybe as most parked in the parking lot or came by bus. Chairman Deutsch asked about the lighting. Bill Sattler said there was one in the back for safety only as there was no swimming at night and the swimming pool area was kept locked, that being a condition by the DOH. He was asked if there was no lighting in the parking area. He said nothing other than one on the existing building. It was mentioned by one of the Board members that a loudspeaker note was already on the plans. After a short discussion, Ray Kelly asked if this was a children's camp. Bill Sattler said yes, that the parents came up on weekends.

**ON A MOTION BY JOHN VAN ETTEN SECONDED BY LYNN DOWE CONDITIONAL APPROVAL WAS GRANTED FOR THE SPECIAL USE PERMIT FOR MACHNE SHAR HATORA WITH THE FOLLOWING THREE (3) CONDITIONS: 1. LIGHTING WILL BE SHOEBOX STYLE; 2. THERE WILL BE A LESS THAN 12 % GRADE ON THE ROADWAY; AND 3. THERE WILL BE NO PARKING ALLOWED ON THE ROADWAY. ALL IN FAVOR, APPROVED.**

**Camp Rayim**  
Special Use Permit  
263 Breezy Hill Road  
SBL: 5.-1-1  
Zone: RD

Bill Sattler of Alder Engineering appeared for this project. The first thing discussed was the lighting. It shows the wrong type of lighting on the plans. The Board requested that it be changed to shoebox style with the light aiming down towards the ground. Bill Sattler said it would be changed. The dry hydrant was then discussed. The Board advised Bill Sattler to meet with the Fire Department to determine where it should be placed. Mark Van Etten the Code Enforcement Officer, said they may need a turn-around at the end of the fire/emergency road – a hammerhead style. John Van Etten said it seemed like most issues of updating looked done. Bill Sattler said he was able to find the pump station that previously couldn't be located. A question was asked about the building. Bill Sattler said that the center of the building would be the shul and around the outside of the building would be classrooms, no outside decks. It was agreed that it looks good. A public hearing is to be scheduled for August 4<sup>th</sup> and Bill Sattler is to submit a letter from the Fire Chief and revise the plans to show shoebox lighting.

**Carl L Hartman**  
2 Lot Subdivision  
Denman Road  
SBL: 37.-1-29.7  
Zone: RD #2009-0007

Carl L Hartman appeared for this project. After a short discussion, it was determined that the well and septic needed to be shown on the map and that a perc test should be done. John Van Etten stated that if the East Mongaup is a County stream and wouldn't that bring up a 239 review. After a short discussion, this project is being sent to the County Planning office for 239 review and will return on August 4<sup>th</sup>.

**Michael Moriggia**  
Special Use Permit  
State Route 55  
SBL 44.-1-54  
Zone: SC #2008-0023

Michael Moriggia appeared for this project.  
Chairman Deutsch made the comment "very nice landscaping". TAPE UNCLEAR  
"That's the key."  
Michael Moriggia said he has people ready to work, they can't wait.  
Chairman Deutsch said "Cause I remember the last landscaping. Never happened."  
Ray Kelly: I thought this was a Zoning problem.  
Chairman Deutsch: What?  
Ray Kelly: The existing garage I thought was too close to the existing store to convert into apartments.

Michael Moriggia: It originally was an apartment. It still has the apartment there. When I used it as a garage, then we couldn't have an apartment above it. But the apartment is still there above it.

Ray Kelly: What apartment?

Michael Moriggia: There's a two-bedroom apartment above the garage that was pre-existing. I had tenants up there and then one time they smelled the exhaust fumes, so Mark closed the apartment. But the apartment still exists.

Lynn Dowe: But now there's no garage.

Michael Moriggia: Now there's no garage. We're going to turn the garage into an apartment and have no more garage.

Mark Van Etten: That building is legally a garage at this point in time. There was prior to the garage, it was a habitable space.

Dean Farrand: So you're going to convert it back to

Michael Moriggia: Yes.

Mark Van Etten: If that's what the plans call for.

TAPE UNCLEAR – SPEAKING TOO SOFTLY

John Van Etten: So is that a pre-existing condition?

Ray Kelly: Is it a pre-existing condition that he's asking for? Or not?

Mark Van Etten: No, it's a garage.

Ray Kelly: It's a garage.

Michael Moriggia: But it still does have the apartment. The original apartment is still there, it was never changed.

Mark Van Etten: No, it was, the apartment was abandoned because it was changed to a garage, Mike. So therefore, it is a garage. That building is a garage.

Michael Moriggia: It was a garage with an apartment the whole time, until the one complaint with the fumes. Because it was apartment. For ten years, while I had the garage, the apartment was rented upstairs. For at least ten years. And then there was the one complaint that they smelled fumes there when the people didn't pay me the rent.

Mark Van Etten: Well it was never. That wasn't the issue, Mike. If you remember the issue was that the heating system was always illegal because it was duct work. You had hot air ducts going right through the garage area that went right into the apartment.

Michael Moriggia: It was all pre-existing.

Mark Van Etten: No, when you converted to the garage, you were supposed to put fire safety in that building that you never did.

Michael Moriggia: No, Pam Winters did the inspection. I had the heat, she made me put a heat thing in the garage, double fire-code rock.

Mark Van Etten: Ductwork puncturing through that.

Michael Moriggia: That ductwork was there when I bought the building. And the garage was there when I bought the building. The only thing I did was add that piece of garage.

Mark Van Etten: The garage was not there when you bought it, Mike.

Michael Moriggia: Yes, the garage was always under that building.

Mark Van Etten: It wasn't used as a garage, Mike.

Michael Moriggia: Well they were parking cars in it, it wasn't used as a repair shop. It was just, they were parking. It was a two-car garage. I've got the old pictures. It was a two-car garage.

Mark Van Etten: You know very well, because it wasn't.

Michael Moriggia: It had barn doors.

Mark Van Etten: What it was when you bought it, it had barn doors and it was used, you took out the coolers because it was part of the store.

Michael Moriggia: There was no coolers in there.

Mark Van Etten: I'm not going to argue, Mike.

Michael Moriggia: When I bought it, there was no coolers in the garage.

Mark Van Etten: And you bought it from who?

Michael Moriggia: Marion Goldstein.

Mark Van Etten: Okay, and who had it just before you? My in-laws, correct?

Michael Moriggia: I don't even know. But when I bought it, I know your in-laws had it, but when I bought that place, there were no coolers in that garage. There was a sunken trough. I had to fill in the thing with concrete in the floor.

Lynn Dowe: The point is, is it legal for apartments.

Ray Kelly: Being that close to the other buildings.

Chairman Deutsch: Well, if it's no longer a garage. If it's turned into apartments.

Mark Van Etten: If it's turned into apartments, um TAPE UNCLEAR TOO MANY SPEAKING

Ray Kelly: ..... TAPE UNCLEAR TOO MANY maximum distance between the two buildings.

Mark Van Etten: You're right, it probably, if it's a pre-existing it probably wouldn't meet.

Ray Kelly: Exactly. That's what we said two months ago.

Nancy Saucier: But you also said, back in November, "Mark Van Etten said that to start he would need sprinklers throughout, fire separations between floors, and that there is a huge amount of upgrade if he was going to add to downstairs". This is what Mark said in the minutes of November.

Chairman Deutsch: If he made it into an apartment.

Mark Van Etten: Fire separations between the two floors.

Nancy Saucier: Yeah, that's what you said.

Ray Kelly: That's a different issue.

Michael Moriggia: I believe this apartment up to two years ago there was an apartment up there.

Ray Kelly: You chose to use it, this structure as a garage.

Michael Moriggia: No, you don't understand. I had the garage. I bought the place in 1992. It was a garage from 1994 with the apartment upstairs until 2006.

Chairman Deutsch: But just because you were using it illegally, doesn't make ...

Michael Moriggia: Pam Winters did the whole inspections. Everything was done legal. I came to the Planning Board here to get permission to use it as a garage and still had the apartment above it. Because, remember, I wound up buying the four acres in the back. Remember I put the parking lot on somebody else's property.

Chairman Deutsch: Yeah.

Michael Moriggia: I had the County come in and they did the road. They gave me permission for the entrance. All this was done through the Planning Board. The whole garage issue, the apartment was above. This was all done through the Planning Board. When I kept the apartment, then just one complaint, the tenant didn't pay me the rent, they had no money to pay the rent. They called Mark. They didn't know he was going to put them out because of, they said they smelled fumes. Mark said the ductwork was inadequate. But it was all original. When I bought the building, that heating system was there, that ductwork was there. Pam Winters inspected it every year.

Mark Van Etten: The whole point was, Mike, when you bought the building, it was not used as a commercial garage.

Michael Moriggia: It was apartments.

Mark Van Etten: That's correct. It was one apartment. By putting a commercial garage underneath it, prior to putting that garage underneath it, there was a choice to be made as to what type of heat system you were going to re-put back up in the apartment.

Michael Moriggia: I think whatever Pam Winters, she was the Building Inspector at the time, whatever Pam Winters said to do, I did it. And she inspected it every year. I could bring her in here and she'll tell that she inspected it every single year. For twelve years it had the apartment above it.

Mark Van Etten: Okay, let's go more recent than that. At the time when, when the apartment was closed down, the ductwork went through the fire rating and it had open, it had hot air pumping through there. The choice was either put a heating system and put fire-proofing up through in the apartment that would service itself and take that furnace out of there and make it self sufficient on the upstairs and make it so that it more a tighter atmosphere if, and the cost that was too high to rent it as an apartment.

Michael Moriggia: No, I would have done it.

Mark Van Etten: At that time, whoever did, took the choice, made the choice of not doing it because it was too expensive and it got abandoned at that point.

Ray Kelly: And it's been empty for more than two years now.

Michael Moriggia: It's about 2 ½ years.

Ray Kelly: So it would mean that it's not grandfathered in to be an apartment anymore. You only have what a year.

Mark Van Etten: A year.

Ray Kelly: So that the argument that there's an apartment there is not valid. It's a garage.

Michael Moriggia: So I've gotta keep it a repair shop is what you're saying. So I'll just keep it a repair shop.

Ray Kelly: To change it from a garage to a residence. It's no longer ours, that's a Zoning issue that the buildings are just too close.

Michael Moriggia: I know that the Town would rather me not keep the garage there. I mean I'll re-open a repair shop there. I mean I can do that.

Ray Kelly: We can't even tell you can do it, because it's a Zoning issue.

Dean Farrand: It requires a variance from the Zoning Board.

Michael Moriggia: It was a repair shop.

Mark Van Etten: It is a repair shop.

Dean Farrand: It is a repair shop now, so if it stays that.

Ray Kelly: That's grandfathered in.

Dean Farrand: It's grandfathered. But if goes to apartments it needs a Zoning variance before we can even look at it.

Chairman Deutsch: What's the minimum on the apartment?

Ray Kelly: It's got to be at least the height of the building. And it's certainly closer than the height of the building.

Mark Van Etten: Between the buildings it's about ten feet. At most.

Dean Farrand: I don't know.

Denise Birmingham: It's no more than ten feet.

Chairman Deutsch: So then to turn it into an apartment, we need a variance.

Michael Moriggia: I'll just keep the garage a shop then. I'll just re-open it.

Chairman Deutsch: With no apartment.

Michael Moriggia: With no apartment, I'll just re-open it. I would just rather not have had a shop there anymore and just stay in Liberty, but I can always rent the shop, not a big deal.

Mark Van Etten: Variance is another option.

Michael Moriggia: I mean how do you apply for a variance?

Nancy Saucier: You have to see me for a Zoning Board application and then we'll have to have a Zoning Board meeting, which normally would be the 21<sup>st</sup>, but there's a class scheduled that night with the Zoning Board so it would probably be the 28<sup>th</sup>.

Michael Moriggia: If I could at least get started on the main building, know what I'm saying? I could still do the variance on the other one. As long as I could get started on something. I don't want to leave the place vacant and I got people that want to rent it, but I was really trying to get out of it being. Because I don't know if they're going to be pigs or not. I just don't, I'm tired of pig sty. You know what I'm saying? I figure if it's rentals, it's easy. I'm just tired of pig sty and yelling at people to clean up that pig sty. That's what I'm trying to get out of. I'd rather just turn it into apartments and then if they're pigs I can just have Mark condemn the apartment and throw them out.

LAUGHTER FROM SEVERAL SOURCES

Michael Moriggia: Then I'll just re-do the apartment and he can come re-inspect and then it's legal again. You know what I'm saying. It's easier to do that than to deal with people destroying your stuff.

Chairman Deutsch: Okay, so we can't look at the garage then.

Michael Moriggia: Okay, we can get the main building done.

Ray Kelly: The other building you want to go from six to nine. Does it meet the code?

Mark Van Etten: TAPE UNCLEAR PAPER RUSTLING in building code that there is an existing building code. TAPE UNCLEAR PAPER RUSTLING but it does for recording requirements to be able to convert existing buildings into usable buildings which I think your engineer had asked me about.

Michael Moriggia: He told me what to do. He told me that once we make the basement apartment an apartment then I've got to put the sprinkler system in. He gave me all the codes and all that.

Mark Van Etten: Even if you convert the store fronts into apartments you would have to have sprinklers. No only the third floor. But I'm going to do it anyway, 'cause in the long run the money for the basement apartment would pay for back in three years and the sprinkler system, so beyond the fourth year its positive, positive cash flow, so I'm gonna do, regardless I'm gonna do.

Mark Van Etten: As far as all fire safety, you still have to meet that prior to getting a building permit.

Chairman Deutsch: So the ones that we're changing are what was the hair salon.

Michael Moriggia: Yes and the other big store would be an apartment as well.

Chairman Deutsch: Cara's cars

Michael Moriggia: Yes, and then below Cara's would be another apartment downstairs.

TAPE UNCLEAR PAPER RUSTLING

Michael Moriggia: It's in the office.

Chairman Deutsch: The basement apartment.

Michael Moriggia: The basement apartment, yes.

Chairman Deutsch: The other ones are what they already were?

Michael Moriggia: Yes, over the last days, six of the apartments exist. We just want to get the salon back to an apartment. I had it an apartment once with Pam and I'm going to get that back to an apartment. Then the other big one will be back. If we turn the big one to an apartment and the basement into an apartment.

Chairman Deutsch: Okay, but these other apartments are as they already exist?

Michael Moriggia: Yes, and I already had them upgraded anyway. Ross Electric re-did all the electric. The heating system TAPE UNCLEAR PAPER RUSTLING I had already everything up to new code. I said I don't want extension cords, I want light switches where they belong. He came in and re-did all the apartments.

Lynn Dowe: Mike, is that the main building you're talking about, those six apartments exist?

Michael Moriggia: Yes, six exist in there now and we're just taking the two stores in the basement and adding two more apartments and to keep my dealer license, I'm just going to have a little a store like in the back there so I can keep my dealer license.

TAPE FLIP

Chairman Deutsch: Well the main building looks okay to me. You'll have to comply with everything, so the only issue would be the garage.

Michael Moriggia: I'll try the variance and if we get to go through and I can make apartments, I'd rather do that. If I can't, I'm not going to lose money on the space. Like I said, I had one guy in there before and he made a pig sty out of my place. I really was disappointed and I don't want that again.

Lynn Dowe: I would explain to the ZBA that it was apartments before it was a garage.

Michael Moriggia: I got pictures of the building from 1957 to 1975.

Dean Farrand: You can ask your buddy at the Swan Lake Fire Department if he really wants to fight that fire.

Chairman Deutsch: And this one is for?

Michael Moriggia: Oh that's just, you guys don't really need that sheet, I'm putting a roof over this back. Mark just really needed this. I just figured I was going to give him everything at once and pay for the permits all at one time.

TAPE UNCLEAR – ALL TALKING AT ONCE

Chairman Deutsch: Everybody, hey wait. Everybody can't be talking. Excuse me! Everybody can't be talking at once because then the tape.

Nancy Saucier: That's okay, we'll just have a blank on that spot.

Chairman Deutsch: Okay, thanks. So we don't really need that sheet.

Michael Moriggia: No, that was for Mark.

Chairman Deutsch: Does anyone have anything else regarding this matter?

Ray Kelly: I'm just so concerned with the two-bedroom apartments so close to the road because there's going to be lots of kids there.

Chairman Deutsch: Which one?

Ray Kelly: The main building.

Chairman Deutsch: In the front?

Michael Moriggia: You know we have railings up over there. What we could do is finish closing off the front totally with the same kind of railing. Instead of having the whole thing, so that they have to go down to the side. On the right side they have to come out and go down into a parking lot. I could close off the front, that should be alright and just put the railings up all the way across. This way if kids did come out they can't go into the street, they'd have to go to the side. You know. I had it that way once. We could just do that again. Just rail out the whole front.

John Van Etten: Does that cause any problems with emergency access or anything.

Mark Van Etten: I would say a railing, you would want a railing that was pretty much open, not a panel.

Michael Moriggia: No, no just like it is, the pickets. I would finish it off with pickets. So instead of just having it two sides and the middle open, we'll just run the whole thing across.

Mark Van Etten: Like wrought iron or something like that you can see through it.

Michael Moriggia: Yeah, sure just like we have it now, we'll just finish it off the two sections that aren't finished right now.

Mark Van Etten: Because there was an issue where we've had solid and it has obstructed the view at the corner, we really don't want that.

Michael Moriggia: We'll leave it like we have it now, I'll just finish it off. It will look exactly the same except for the kids can't walk straight into the street. They'll have to walk around to the side.

Mark Van Etten: Something small like wrought iron, something like that that you can see through.

Michael Moriggia: We have regular pickets on their now. You know what I'm talking about, treated lumber pickets, you know with the flat thing across the top. You go past the building you can see it. The intersection is open, you know. They won't be able to walk in the street, they'll have to walk to the sides.

Lynn Dowe: You can't have more than a four inch opening though.

Michael Moriggia: No, I think it's the thickness of a picket. Maybe two inches or something like that.

Lynn Dowe: Staggered.

Chairman Deutsch: Does that make you feel like it's safer?

Ray Kelly: I'll sleep better tonight.

LAUGHTER

Chairman Deutsch: Anything else? Anybody?

Lynn Dowe: No.

Chairman Deutsch: So, it will be sent for 239 and be sent to the ZBA. So you'll have to indicate that that is what you're going to do with the railing to keep the traffic to flow to the side.

Michael Moriggia: So I'll just give that to her tomorrow.

Chairman Deutsch: Yeah.

Michael Moriggia: Yeah, I'll see you tomorrow and we'll do the variance thing tomorrow.

TAPE UNCLEAR ALL TALKING AT ONCE

Chairman Deutsch: There's no parking, I didn't see any parking on that map.

Michael Moriggia: I just picked up two no parking signs. I'm waiting for the police department. Because I'm going to tow the cars away if they keep parking over there.

Chairman Deutsch: I didn't check the number of spaces on that map.

Dean Farrand: Twenty.

Michael Moriggia: Yeah I gave them 20 extra, we've got 44.

Chairman Deutsch: Oh there was? Okay. There's plenty.

Nancy Saucier: Is this for a use variance or area variance?

Lynn Dowe: Area.

Dean Farrand: Area. It would be an area variance.

Chairman Deutsch: Yeah it would be, because it's the space at the side. The space is not enough.

Ray Kelly: In our code or the Village's code?

TAPE NOT CLEAR – MUMBLING

Ray Kelly: It might have been the Village's.

Chairman Deutsch: Okay, alright so I guess that's everything that you need for now.

Michael Moriggia: Thank you very much.

**NEW BUSINESS:**

**Gladys Hyzer**  
Information Only  
236 Cattail Road  
SBL: 4.-1-3.1  
Zone: RD

Gary Mann appeared in place of George Fulton for this project. After a short explanation by Gary Mann, Mark Van Etten said he has done inspections and great efforts have been made to clean up the property, there is still some debris but the clean up should be done before final approval is given. Chairman Deutsch said it looks much better. Several Board members agreed that this project looked much better than when it was submitted previously for information only. Chairman Deutsch read the SEQR.

**ON A MOTION MADE BY LYNN DOWE AND SECONDED BY DEAN FARRAND, A NEGATIVE DECLARATION WAS GIVEN. ALL IN FAVOR. APPROVED.**

A public hearing will be held for this project for August 4<sup>th</sup>.

**John Arias**  
Special Use Permit  
263 Lt. Brender Highway  
SBL: 46.-1-30.13  
Zone: RD

John Arias appeared for this project. John Van Etten said he had spoken with John Arias and explained that he would need to show a narrative or plan that shows his business hours and he would also need to apply for his NYS gunsmith/dealer license. John Arias has provided the Board with a copy of his application for that license and a plan showing his business hours. He was asked if he planned on having a sign, and if so the Board would need to approve it. He said he would prefer not to have a sign and be strictly word of mouth. The Board was fine with that. This project will be sent to County Planning for 239 review. John Arias will submit a drawing showing the location of the house and parking. To come back for August 4<sup>th</sup>.

**William Prince**  
Lot Improvement1  
Worden Lane  
SBL: 31.-1-22.1 & 22.6  
Zone: AC #2009-0022

Michael Woods appeared for this project. A brief discussion was held wherein Michael Woods explained how the lot improvement would be done.

**ON A MOTION BY DEAN FARRAND SECONDED BY JOHN VAN ETTEN THE LOT IMPROVEMENT FOR WILLIAM PRINCE WAS APPROVED. ALL IN FAVOR, APPROVED.**

**William & Marion Abplanalp**  
Special Use Permit  
3310 State Route 52  
SBL: 33.-2-1  
Zone: SC #2009-0023

William and Marion Abplanalp appeared for this project. Marion Abplanalp explained what they wanted to do. John Van Etten mentioned the water runoff and the church next door having a flooding issue. After a short discussion, it was determined that the runoff from the roof on the proposed addition would be running in a different direction that towards the church property. This project will be sent to County Planning for 239 review and a public hearing will be scheduled for August 4<sup>th</sup>.

**ON MOTION BY LYNN DOWE SECONDED BY JOHN VAN ETTEN THE MEETING WAS ADJOURNED AT 8:45 PM.**

The meeting was re-opened to discuss the reading of SEQR for the Poley Paving Project.

**Poley Paving Office Project**  
Subdivision  
Twin Bridge Road  
SBL: 36.-1-155 & 36.-1-131.1  
Zone: IC

It had been determined that the SEQR was not done at the May 19<sup>th</sup> meeting prior to the approval given on June 2, 2009. Chairman Deutsch read the SEQR.

**ON A MOTION MADE BY RAY KELLY AND SECONDED BY JOHN VAN ETTEN, A NEGATIVE DECLARATION WAS GIVEN. ALL IN FAVOR. APPROVED.**

**ON MOTION BY LYNN DOWE SECONDED BY JOHN VAN ETTEN THE MEETING WAS ADJOURNED AT 9:00 PM.**

Respectfully submitted,  
Nancy Saucier, Planning Board Secretary

The foregoing represents unapproved minutes of the Town of Liberty's Planning Board from a meeting held on July 7, 2009 are not to be construed as the final official minutes until so approved.   X   Approved as read