

**PLANNING BOARD
TOWN OF BETHLEHEM**

April 20, 2004

The Planning Board, Town of Bethlehem, Albany County, New York held a **Regular Meeting**, on Tuesday April 20, 2004, at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, NY. Chairman Parker D. Mathusa presided and called the meeting to order at 7:30 pm.

Agenda: Chili's Restaurant – Brinker Restaurant Co. – Rt. 9W- Amendment to Town Squire Phase II Site Plan
Delmar Construction & Interior Design – Linda Stockwell – Kenwood Ave. – Site Plan
Country Quarters – Marty & Donna Sousie – Rt. 9W – Site Plan

Present: Parker D. Mathusa, Planning Board Chairman
Brian Collier, Planning Board Member
Thomas Cotrofeld, Planning Board Member
Howard Engel, Planning Board Member
Katherine McCarthy, Planning Board Member
Christine Motta, Planning Board Member
Daniel Odell, Planning Board Member

Jeffrey Lipnicky, Town Planner
Janine Saatman, Deputy Town Planner
Randall Passmann, Town Senior Engineer

Robert Spiak, Bohler Engineering, Chili's Restaurant
John Eiberger, Brinker Restaurant, Chili's Restaurant
Linda Stockwell, Delmar Construction & Interior Design
Richard Hoffman, Architect, Delmar Construction & Interior Design
Paul Hite, LLS, Country Quarters
Marty & Donna Sousie, Country Quarters

TOWN SQUIRE PHASE II AMENDMENT 2 – RT. 9W- CHILI'S RESTAURANT

Chairman Mathusa turned the Board's attention to the request for an Amendment to the Town Squire Phase II Site Plan by Brinker Restaurant. Brinker Restaurant was requesting a change to the layout of the building. Mr. Collier made the statement that this amendment was a record from the time of the signing of the approved plat to a request for an amendment. Mr. Spiak represented the applicant. He stated that they proposed to mirror the building. They had moved the To Go door to the side facing away from the Hollywood Video. They had also removed the pole-mounted speakers because they didn't feel that they worked well in the northeast. The building size had also increased by about 149 sq. ft. to accommodate a larger To Go waiting area. The number of parking spaces had been over the requirement and with the additional sq.

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footage, the parking was still within the Code requirement. The building elevation had not changed nor had the finishes to the outside of the building. He felt that there were minor changes being made to the site.

Chairman Mathusa asked Mr. Lipnicky to comment on the proposed changes. Mr. Lipnicky wanted to comment on Mr. Collier's statement concerning the speed at which the applicant returned for a site plan amendment. The idea of changing the square footage of the building and bumping it out a bit was raised to staff back in December. The staff had felt that the applicant was very close to getting their project approved and getting construction underway. It had been suggested to the applicant to wait for the plans to be signed and then come back before the Board for an amendment. The project ended up with an approval document that included many conditions that took longer to meet than anticipated, in order for the plans to be signed. That was the reason for the proposed amendment being submitted at this time. Mr. Spiak stated that the current amendment request was separate from Schuyler Companies; the applicant was Brinker Restaurants. That being said, Mr. Lipnicky indicated he didn't have any problems conceptually with what was being proposed, but he did have a concern. Six months ago, he had requested the submission of plans that are plotted to a commonly used architectural or engineering scale so that staff could measure signs and buildings and determine zoning compliance. They had asked for this a number of times and never received them. He indicated he was at the point of suspending the review of the project until he received the items he had requested. These items were required as part of the site plan approval. The sign plans had been repeatedly submitted without the information he had requested. Mr. Spiak stated that the sign plans had always been clearly dimensioned and stated the square footage on them. In his opinion, this met the intent of being scaled. Mr. Lipnicky stated that the signs were three-dimensional objects that needed to be scaled in order to be accurately measured.

Chairman Mathusa stated that directly on the drawings was a note stating that they were not to scale. That was the issue. Mr. Spiak stated that they were waiting for the final moment to get the scaled drawings together to make sure that nothing else was to be changed. He didn't feel that they were ignoring Mr. Lipnicky's request. Mr. Lipnicky stated that he believes his requests had been ignored. Mr. Eiberger, a representative of Brinker, stated that the drawings he had were dimensioned drawings. Mr. Lipnicky again stated that they were not to scale. He stated that his department was suspending the review of the project until the requested scaled plans were received.

Mr. Odell stated that considering the discussion he offered a motion to table the project. Mr. Cotrofeld seconded the motion and it was approved by all present.

Mr. Eiberger asked for an approval contingent on delivering scaled plans. He stated that his application was separate from Town Squire. Mr. Odell stated that a motion had been made, seconded and passed; therefore the project's review was over for tonight.

Chairman Mathusa reminded the applicant to carefully examine the comments that had been sent to them and respond fully.

DELMAR CONSTRUCTION AND INTERIOR DESIGN – KENWOOD AVE.

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Chairman Mathusa turned the Board's attention to the next item on the agenda, a proposed site plan at 427 Kenwood Avenue. Ms. Stockwell, the applicant, presented for the project. She stated that when they had previously been in front of the Board, they had requested changes be made to the garage so the architecture would blend with the existing structure better. The front of the garage now showed an additional roofline for interest that included trim, the sidewalls had been lowered, the size of the doors had been reduced to 10 x 10 with molding and the colors had been labeled as requested. The other storage building had not been changed but the colors were now labeled and additional elevation views had been submitted.

Ms. Saatman stated that even though all of staff's comments to the site plan had not been addressed and submitted to date but she had wanted the Board to see the revisions that had been proposed for the garage. She also felt it would help move the project along to discuss the parking and the driveway easement.

Mr. Collier stated that he was satisfied with the changes that the applicant had made. Ms. McCarthy was also pleased with the changes. Mr. Cotrofeld thanked the applicant for her efforts. He was pleased with the raised panels on the doors. He asked about the texture of the siding. Ms. Stockwell stated that the front of the garage would be the same as the existing structure the other three sides would remain the same. Ms. Motta wondered about the clearance of the trucks. She wondered if there was enough room for them to turn around in the area provided versus backing out onto Kenwood. Ms. Stockwell stated that their trucks would have ample space. The delivery trucks might have to back onto the property. They had few deliveries; most of their deliveries were directly to their clients' homes. Chairman Mathusa wondered about the progress of the driveway easement. Ms. Stockwell stated that they were still working on the easement, but if they did not receive the easement, they wouldn't pave but they still had ample room. Ms. Saatman stated that the Albany County Planning Board's recommendation was for a review to be done by the Department of Transportation for assessment of highway access. She stated that she would fax a copy of the recommendation to the applicant. She had previously brought up concern over the parking spaces that were proposed in front of the garage. She understood that the applicant's trucks left in the morning prior to the business being open and returned after they closed. She wanted to know if the Board found that as a problem. She also pointed out that a small area in front of the garage was gravel and the rest of the parking would be paved. She recommended paving all of it so the parking spaces could be striped. People wouldn't know where to park, she thought it would be harder to maintain because of the need to plow in the winter. The applicant preferred not to pave, she thought it helped with the drainage and she preferred the look of the gravel because of the Victorian look that they were trying to achieve. Ms. McCarthy agreed, she preferred the gravel also. Ms. Saatman stated that the area wouldn't be visible from the road. Chairman Mathusa asked the applicant if there would be any difficulty in plowing over the gravel. Ms. Stockwell stated that the barn that she currently rents had gravel and they plow. They replace the gravel in the spring after the plowing season. The snow removal would be placed in the same area behind the parking area that was currently used.

Mr. Collier felt that if the applicant wanted the parking area gravel, they should be able to do so. Ms. Saatman wanted to know how the parking spaces would be identified if they were gravel. Ms. Stockwell stated that she never had more than two or three clients on site at once, parking

had never been a problem. She would pave if the Board found that necessary. The handicapped parking would have paving. Mr. Hoffman stated that the storage shed was required to have parking even though clients wouldn't be seen there. He felt there would be ample parking, even if someone parked crooked.

Chairman Mathusa wanted to know how many of the spaces would be lined. Mr. Hoffman stated that four of them would be striped. He identified for Mr. Engel where all the parking spaces were located on the site. Mr. Lipnicky stated that without delineated spaces, he wasn't sure that it met the Code. Ms. Stockwell wanted to know if being in close proximity to the municipal parking lot would make a difference in their parking requirements. Chairman Mathusa stated that they needed to be a self-contained entity as to the parking. Mr. Collier stated that the applicant said they would have nine spaces and for all practical purposes they meet the Code whether they were striped or not. He didn't see where a few lines would make that much difference. Ms. Stockwell stated that they could mark the parking spots on the building. Staff and the Board wanted to check with the Building Department and their Code requirements before making a final determination on how to handle the parking. Chairman Mathusa preferred the applicant pave the area and stripe the spaces. A question of trash removal was brought up. The applicant stated that there were barrels for the apartments that were kept under the stairwell.

Ms. Saatman stated there was a five foot buffer required between the site and the residential zone next door. She wanted to know if the Board considered the applicant's proposed landscaping for the buffer sufficient. Ms. Stockwell stated there was currently considerable existing vegetation and the property next to the site had a shed along the property line. Beyond their proposed landscaping they didn't feel that the area needed more screening. Ms. Saatman felt that the garage area might need additional landscaping. Mr. Hoffman stated that there wasn't anything in that area to screen but if the Board wanted they would include more. The Board deferred comment until they could examine this issue more fully. They wanted to make sure the proposed landscaping was sufficient to meet the Code but not over burden the applicant. Ms. Motta wanted to know why the applicant had chosen metal for the sides of the garage verses the vinyl being used for the front. Ms. Stockwell stated it was more cost efficient.

Mr. Passmann stated that the Engineering Division had sent a comment letter to the applicant concerning what was needed pertaining to grading and site storm drainage.

Ms. Stockwell commented that she was a small business whose lease expired on her current business site on May 1, 2004. If there was anything that could be done to expedite the process, it would be greatly appreciated. Mr. Hoffman stated that he would be submitting revised plans within a week. Mr. Collier was sensitive to her needs and asked if it would be possible at the next meeting to give her a conditioned approval. Chairman Mathusa stated that it could occur, if there was sufficient material submitted.

Mr. Engel commented that the paving of the parking area would effect the site drainage. Chairman Mathusa thought the paving might be necessary to comply with the Code.

A motion to table was offered by Mr. Engel, seconded by Mr. Cotrofeld and approved by all present.

COUNTRY QUARTERS – RT. 9W

Chairman Mathusa turned the Board's attention to the next item on the agenda. A site plan known as Country Quarters located on Rt. 9W. Paul Hite, LLS presented for the applicant. The proposed site plan was a small commercial endeavor located on the southerly side of Rt. 9W about 1/3rd of a mile from Wemple Road. The site was located in an area that was a mix of residential and commercial properties. The applicant currently resided on the site in the existing English Tudor home. A large portion of the site was grass with a number of existing trees. There currently was an area that was graveled, a small building that the applicant would be using for product storage and a paved driveway that would be widened at the end and clearly marked for handicapped accessibility. The stone area would be used for parking. Mr. Hite felt that there was sufficient room for seven (7) spaces. In a commercial area, parking within ten (10) feet of a highway boundary was not allowed. The applicant proposed to build an island area to separate the parking from Rt. 9W. It would be seeded and planted and would also include the sign for the business with separate lighting. Until the business had been operating for a few years, the gravel would remain. If the decision was made to pave at a later date, they were aware that runoff and drainage would need to be taken into consideration. The applicant had met with the NYS Department of Transportation, and they stated that the entire twenty-four (24) feet at the entrance to the driveway needed to be paved in order to meet the NYS standards. A revised plat would reflect that change. The single family home on the site will continue to be used as such. There was an existing wooden fence that runs along the south side boundary of the property.

Mr. Collier wanted to know the present use of the twelve (12) by twenty-four (24) foot building that was shown on the site. Mr. Hite explained that the applicants, Mr. & Mrs. Sousie, had retained him to do this site plan. Due to an extended illness of Mr. Hite's, the building that had been ordered and showed up prior to him being able to finish the site plan. They couldn't leave it in the road, so they place it where it is now. Mr. Griffiths in the building department had told Mr. Hite not to worry because the applicant fully intended to come before the Board for Site Plan Approval.

Ms. Saatman stated that the staff comments had included a concern with the parking. She believed that the right-of-way for Rt. 9W was subject to a claim of sixty-six feet as a turnpike. In previous projects, that line was shown on the map. Additionally, the draft Rt. 9W corridor overlay suggested an eighty foot set back and that included structures and parking being prohibited within that area. The eighty feet included a 20 foot area known as a landscape strip to screen parking. She stated that the Board had looked at that study in previous projects as long as it did not cause undue hardship to the applicant.

Mr. Lipnicky stated that those setbacks had come from the Rt. 9W Corridor Study. The eighty foot number had been arrived at by figuring in two lanes in each direction, landscape strip, a center turn lane, sidewalks where necessary and a right turn lane.

Ms. Saatman felt that the existing Code parking setback effectually cutoff the parking space nearest Rt. 9W. Any additional setback would be at the discretion of the Board.

Mr. Hite stated that the State did claim that Rt. 9W was a turnpike in certain areas but not in it's entirety. His office had researched the issue and couldn't find any record of claim of the turnpike right-of-way below Glenmont Road. There were maps and deeds on record that start at the City of Albany and run to Glenmont Road that substantiate the claim of the turnpike right-of-way but not beyond. Mr. Hite felt that if in the future the state decided to claim the right-of-way, the existing parking could easily be moved. The applicant had adequate space to the rear of the property to accommodate that move.

Mr. Lipnicky stated that even without the claim of turnpike, staff had a concern that the two (2) parking spaces that were closest to Rt. 9W were too close. People backing out of the spaces would prevent a person turning into the driveway ample space to get out of the flow of traffic quickly. Mr. Hite stated that the parking spaces could easily be moved. Chairman Mathusa agreed that the spaces should be moved.

Mr. Lipnicky commented that with projects that had recently been before the Board, a substantial setback for future widening of the road had been required. Those projects had been close to the minimum of required parking spaces to comply with the Code. If any of their spaces had been lost, there wasn't another area that could have been utilized for those spaces. Also they had proposed permanent improvements to the setback area such as drainage systems and in a few instances; buildings. Turn lanes in both directions might also be needed near those other projects that would require more land. This project was not located near an intersection so the eighty feet would not be necessary. This project was proposing a gravel parking area that would be inexpensive to move if the state needed the space to expand Rt. 9W.

Chairman Mathusa stated that the Board had wanted the applicant to have information about what may occur in the area in the future. He thought that moving the two (2) spaces should be sufficient at this time. Mr. Hite stated that NYS DOT had been in favor of the proposed island at the front of the parking lot. It would help as a marker during snowplowing season. Ms. Saatman wanted to make sure that the two (2) parking spaces that were being eliminated would actually be moved to retain the same number of spaces. Mr. Hite stated that could be done.

Mr. Passmann asked Mr. Hite to explain the drainage pattern. Mr. Hite stated that the area was very flat. There was a slight ditch that ran along the southern property line. He didn't feel was maintained by anyone. He had identified it on the map as an existing swale. They proposed to leave it as is. If at a later date they decided to pave the parking area the drainage would be handled with a catch basin and a drainage pipe to a low area in the rear of the property. Mr. Passmann had noticed on a site visit, that the fence had been located inside the property line with the ditch on the opposite side. He wanted to know if the drainage from the applicant's property drained to the area. Mr. Hite stated that there was minimal pitch to the land, not much drainage occurred.

Snow plowing was not an issue because the business was seasonal. Mr. Sousie stated that the season would run from about May through October. The lighting would be on the sign, whatever was already on the house and there were two small carriage lights on the new building. There wouldn't be any flood lights. The lights on the sign were low wattage and the applicant preferred

to be able to leave them on all the time. If the Code did not allow that he would shut them off. Ms. Saatman asked if they had set the hours of operation. Mr. Sousie stated they would probably be closed by six (6) or seven (7) weekdays and weekends maybe eight (8).

Mr. Passmann asked where the sign would be located. Mr. Hite stated that it would be on the island. There were large pine trees that lined Rt. 9W up to the proposed site so they wanted the sign close enough to the road to be seen.

Mr. Collier stated that the site looked fine to him and the use appeared to fit within the zoning Code. He was accustomed to seeing more detail on plans than were submitted. He wanted to know if contours should be included. Mr. Hite stated that across the entire site there was very little contour and the grading hadn't been shown because there wouldn't be any done.

Ms. Saatman stated that as part of the staff review, if it is necessary, they will ask for more detail. Mr. Passmann stated that Engineering hadn't completed their review but would issue comments when finished.

Mr. Sousie stated that the trash would be minimal. The need for separate trash removal would not be necessary. Both Mr. Hite and Mr. Sousie asked the Board if at all possible to be back on the next agenda for approval, considering the business's season was upon them.

Ms. Motta asked about deliveries. Mr. Sousie stated that after the initial delivery, he would be going to get the products himself.

Ms. Saatmann stated that staff would like to see additional plantings on the island for screening. Mr. Sousie stated that they fully intended to plant small bushes and flowers.

A motion to table was offered by Ms. McCarthy, seconded by Mr. Odell and approved by all present.

A motion to accept the minutes of April 6, 2004 as amended was offered by Mr. Odell, seconded by Mr. Cotrofeld and approved by all present.

A motion to adjourn was offered by Mr. Cotrofeld, seconded by Mr. Engel and approved by all present.

The meeting ended at 8:45.

Respectfully submitted,

Nanci Moquin