



(2) fence system was not consistent with the other hives in the community. She was trying to figure how that would work in her yard. She said that the water system requested would not present a problem.

Mr. Odell said that the Board had considered many opinions, research and information on the topic. He thought that the draft approval document addressed some of the concerns of the neighbors. He said that this was an agricultural use in essentially a residential district so the abutting properties needed to be taken into consideration. He thought that the document struck a reasonable balance.

Mr. Smolinsky said the applicant's original proposal suggested a forty (40) foot setback from the front of the hive to the property line and one (1) six foot high fence around the rear yard. He didn't think the record supported a forty (40) foot setback to all property lines. Chairman Mathusa said that the site dimensions afforded the opportunity to have the forty (40) foot setback from all property lines that was why it was requested. The second fence was for additional security.

Mr. Smolinsky said that the applicant had made a commitment to the forty (40) feet from the front of the hive but he thought the Vancouver Guidelines of twenty-five (25) feet from the other two (2) sides would be sufficient. He wondered if the inner fence would interrupt the maintenance of the hive. Chairman Mathusa said that to be fair to all the neighbors that opposed the project was to require the same distance to all property lines. He said that one of the letters the Board had received from an expert had suggested the inner fence for two reasons: security and to direct the flight of the bees.

Ms. Powers said that the approval document as written would greatly reduce the risk of anyone being harmed by the bees. But some people who had spoken at the public hearing said they had kept bees for years here in Town and they were unregulated without incident. This proposal seems very restricted compared to them. She questioned the need for the additional interior fence.

Ms. Motta said that the expert's letter that Chairman Mathusa was referencing had come from Ann Frey, a past president of the Adirondack Beekeeper's Association and active with bees since 1990. Ms. Frey had suggested putting a six (6) foot high fence around the hive with a locked gate. She refers to it as a yard within a yard that would keep children from seeing the hives and help raise the flight path of the bees.

Mr. Smolinsky said that the swimming pool regulations called for one (1) locked fence which could be applied in this instance. Chairman Mathusa said that the Board had received many letter from the neighbors that were against the hives and he thought the additional fence would calm their concerns.

Mr. Engel said that he had looked at the safety issues and the comments from the neighbors in which a good majority were opposed. Whether their fears were real or imagined, he was not sure, he has had his own experiences with bees. He has concerns with the hives being in a residential area. The letter from Ann Frye specifically states that "having a good relationship with your neighbors is more important than the good done by bees pollinating some backyard fruit trees and vegetables. I just hope that if Ursula's application to keep bees is denied that it does not set a precedent." He thought that was a key issue in looking at this application. The bees will do the same agricultural good where they are located now as they would in her backyard. Mr. Engel said this was a hobby that could be continued at their current location. He did not think that this was the type of activity that should be brought into a residential area that was already developed. He said that based on the information he reviewed, he was against the application.

Ms. Motta said that there were many favorable comments at the public hearing from people that had kept bees for years. Those comments were compelling and those people thought it was safe to have hives in this environment as long as precautions were taken. They had emphasized being a good neighbor. She thought that the people who had spoken out against the hives based their comments on a more generalized notion that this type of activity

should not be allowed in a residential neighborhood and their fear of bees rather than personal experience. She

thought that the precautions within the draft approval document were reasonable and they addressed the aspect of being a good neighbor as well as ensuring the safety of the neighbors. Some of the facts the Board had reviewed showed that if people were to be stung, it would happen if they were threatening the hive. The six (6) foot high fence and the setback would help keep people away from the hives and the fences would help raise the flight path away from people.

Mr. Smolinsky said that he was supportive of the hives and he thought there were conditions that could be placed to address the concerns of the neighbors without overdoing those kinds of measures. He preferred to look at the guidelines set forth by Vancouver. He thought forty (40) feet from the property line that the hive entrance faces and a locked fence around the perimeter of the yard would be sufficient. He didn't see the support in the record for a second fence.

A motion to put the site plan approval document on the table for discussion was offered by Mr. Odell, seconded by Mr. Smolinsky and approved by all Board members present.

The Board reviewed the draft Site Plan Approval document, S.P.A. 135 prepared by staff.

The Board decided to eliminate the condition that required a second fence around the hive and the condition pertaining to the setback requirement was amended to reflect a forty (40) foot setback from the southeast property line and a twenty-five (25) foot setback from the rear and the other side property line. These changes would allow the applicant and her family to still use and enjoy their yard and at the same time the six (6) foot perimeter fence would secure the yard and the hives.

A motion to table the project while an amended condition was drafted by counsel was offered by Mr. Smolinsky, seconded by Mr. Odell and approved by all Board members present.

**(SEE CONTINUATION BELOW)**

### **McDonalds**

The next item on the agenda was a request from McDonalds for a site plan at 132 Delaware Avenue. He said that the applicant had responded to comments from the Board and revised the elevations of the proposed restaurant.

Mr. Caponera, Esq. presented for the project. He said that the applicant had listened to the Board. He said the corporate offices have agreed to the elevation changes that were now proposed. In his opinion, the new elevations reflected the changes requested by the Board and the Zoning Law requirements for Commercial Hamlet design guidelines. The roofline was a parapet wall that hid the air conditioning units and other ventilation equipment. Mr. Caponera pointed out that the yellow on the building had been muted.

Ms. Powers asked if this design had been used in other areas. Mr. Gillespie said the design was under consideration for a town on Rhode Island but none were currently constructed. Chairman Mathusa said the design of this structure was important to the Board.

Mr. Engel said that the new design was an improvement over the previous design. He mentioned that he has seen McDonalds in a variety of spaces, one of them being an adaptive reuse of an existing structure. He recognized there were concessions on both sides.

There was a consensus from the Board that the design was generally acceptable and the applicant could go forward developing their design.

Mr. Smolinsky asked the height of the original proposal and the height of the current proposal. Mr. Gillespie said that the original height was twenty-two (22) feet and the current proposal's height was about twenty-two point five (22.5) feet. The Zoning Law allows a structure to be thirty-five (35) feet.

Mr. Odell said that the new design was an improvement, particularly the use of brick and the window fenestration.

Chairman Mathusa asked the applicant to show the current proposal with the landscaping plan from the original proposal for the public hearing.

The Board reviewed the draft SEQR Resolution, Classification of Action and Negative Declaration as prepared by staff.

A motion to approve the SEQR Resolution as drafted was offered by Mr. Engel, seconded by Ms. Powers and approved by all Board members present.

A motion to schedule the Public Hearing for the Special Use Permit on the September 18, 2007 at 7:00pm was offered by Mr. Smolinsky, seconded by Mr. Odell and approved by all Board members present.

### **Ursula Bauer**

A motion to place the Bauer project back on the agenda was offered by Mr. Smolinsky, seconded by Mr. Odell and approved by all Board members present.

Mr. Engel said that the Board had been quoting the Vancouver Guidelines and part of that package also has a stipulation that requires beehives to be registered. It allows the authorities the ability to respond to complaints, do inspections. This Board had done nothing to address those issues. He would like to see the Town Board form a policy, such as the Vancouver Provincial Policy, to address these matters before additional applications were submitted.

Chairman Mathusa said that outside agencies had been contacted and asked for their opinion. They had offered very little. He noted that a new NYS Dept of Ag & Mkt Law did require beekeepers to register their hives.

A motion to approve the Site Plan Approval document, S.P.A. 135, as amended was offered by Mr. Smolinsky, seconded by Ms. Powers and with a vote of Mr. Smolinsky, Ms. Powers, Mr. Odell, Ms. Motta and Chairman Mathusa for, Mr. Engel against and Ms. McCarthy absent, the motion carried and S.P.A. 135 was approved.

### **Glenmont Plaza**

The applicant proposed to amend the approved site plan with a façade renovation for one (1) store and the addition of two (2) wall signs.

Mr. Bob Trybulski from Benderson Development, presented for the applicant. He said that Bed, Bath & Beyond was interested in coming into the plaza and they wanted to open this store in their last fiscal quarter, which would be in February of the coming year. They have specific design requirements that they wanted to have on their facades. The same brick pattern will be carried through from the other portions of the plaza with a slight change to the efface pattern. He said that he was before the Board for the façade and sign for Bed, Bath & Beyond and the sign for Famous Footwear. He said that both signs would be illuminated with channel letters and their size complies with the square footage allowed for a shopping center in this district. Mr. Trybulski showed the Board a tentative façade for the remainder of the plaza to accommodate the last two (2) spaces for stores. He also included a future potential site plan amendment for the rear driveway area. There is a bumped out area that would make it very difficult to get a truck through with a dock. The proposal was to remove the bump out which would

require the removal of about six (6) evergreen trees. They would add additional landscaping to the area to replace what was removed. They knew that they would need to come back for this amendment.

Mr. Leslie said that when the Glenmont Plaza was originally approved, the line of trees separating the cemetery from the plaza was saved as a screening for the loading dock area. It was also a screening for the cars traveling north on Route 9W. The row of trees they were proposing to remove was a third row of trees that was not a part of the original planting plan for screening. He had suggested to the applicant to add trees further back to maintain the integrity of the current screening.

The Board reviewed the draft SEQR Resolution, Determination of Significance/ Negative Declaration prepared by staff.

A motion to approve the SEQR Resolution as drafted was offered by Mr. Smolinsky, seconded by Ms. Powers and approved by all Board members present.

### **KeyBank**

Chairman Mathusa turned the Board's attention to the next item on the agenda. KeyBank located at the corner of Delaware Avenue and Kenwood Avenue in Delmar proposes to renovate the façade of their building.

Mr. Matt Heisey from Vocan Architects, said KeyBank is currently under a 2007 branch modernization program to bring seventy-five (75) locations up to a more esthetic standard. The existing brick will remain intact, will be cleaned and re-pointed, the windows will be replaced, a new roof material would be added as well as a new sign. The current HVAC equipment is located near the drive thru teller window. The drive thru area would be expanded and the HVAC equipment relocated to the roof in a sunken area. The equipment would not be visible from the street. He showed the Board a proposed material board. They proposed to add red awnings to the window areas.

Chairman Mathusa asked if any of the landscaping would be updated. Mr. Heisey said that a landscape architect had been to the site. He was working on a new landscaping plan and the lighting on the corner would be updated.

Mr. Smolinsky wanted to know the height of the new addition. Mr. Heisey said the proposed height was about twenty-five (25) feet. The maximum height allowed in this zone was thirty-five (35) feet.

Mr. Morelli said that this project would need to go to the Albany County Planning Board.

A motion to table the project was offered by Mr. Odell, seconded by Ms. Motta and approved by all Board members present.

The Board reviewed the draft minutes of August 7, 2007.

A motion to approve the minutes of August 7, 2007 as amended was offered by Ms. Motta, seconded by Mr. Smolinsky and approved by all Board members present.

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

The meeting adjourned at 9:00 PM.