



*Village of Colonie*  
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**MARK P. STEVENS**  
TRUSTEE

**JAMIE L. BLOT**  
CLERK

**Minutes**  
**Tuesday, September 17, 2024**  
**6:30 P.M.**

The regularly scheduled meeting of the Village of Colonie Planning Commission was held at Village Hall, 2 Thunder Road Albany, NY 12205 on Tuesday, September 17, 2024.

**ROLL CALL:** Chairman: Chris Dennis

Commissioners: John Martin  
Brittany Kendall  
Kenny Hart  
Jim Splonskowski  
Alison Curran  
John Lemperle

Alternate: Carl Kuentzel

Village Attorney: Victor Caponera  
Village Engineer: R.J. Laberge

Liaison: Frank A. Prevratil

Chairman Dennis opened the meeting at 6:30 p.m., Commissioner Hart led the Pledge of Allegiance and requested that all electronic devices be turned off or muted. The Commission reviewed the regular meeting

minutes from September 3, 2024. Commissioner Martin made a motion to approve all minutes as amended. Commissioner Hart seconded the motion.

Vote: unanimous to approve

**Change of Occupant**  
**30 Broderick Street**  
**Home Business/Garage Rebuild**

Mr. Jared Furnari, owner of 30 Broderick Street, appeared before the Commission.

Mr. Furnari stated that he proposed to build a new garage to store his personal/work vehicle and his personal wood shop. Mr. Furnari stated that he had applied for a permit from the building department and was denied because of the size of the building and referred to the Zoning Board of Appeals. Village Attorney Caponera stated that the Zoning Board of Appeals determined that they would need more details as to whether this was a home business and deferred the application to the Planning Commission.

Mr. Furnari stated that in his application he has broken down the use in the garage regarding storage for his business, the wood shop and space for his vehicle and trailer. He stated he will need a variance for the proposed garage.

Chairman Dennis asked Village Attorney Caponera to address the requirements needed by the Village Code.

Attorney Caponera read Village Code 242-5- I (c), Accessory Structure, which states that the building cannot be more than one story high or exceed 576 square feet, based on that alone the building inspector

denied the application and Mr. Furnari came before the Zoning Board. Through further conversation it was determined that this could be a possible home occupation. Attorney Caponera stated that he recommended that the Zoning Board table the application and send it to the Planning Commission for further review.

Attorney Caponera stated you can have a home occupation but there are several other requirements. Attorney Caponera read Village Code 242-5-C which speaks to the parking or garaging of vehicles and the size of said vehicle. Trailers with a carrying capacity of more than one ton or a gross weight of three tons are prohibited. Attorney Caponera asked Mr. Furnari the weight of his truck and commercial trailer. Mr. Furnari stated he would have to check the actual weight but believes it is under fifteen hundred pounds.

Attorney Caponera read Village Code 242-5-H (1) (b), which states that home occupation will occupy no larger area than twenty five percent of the principal dwelling. Based on the nine hundred square feet of the garage, that would be seventy-two percent of the living space. Mr. Furnari corrected the living space to be one thousand two hundred and thirty-six square feet. Attorney Caponera stated it is still over twenty-five percent.

Attorney Caponera read Village Code 242-5-H (1) (d), which states that inventory for the business cannot exceed one hundred twenty-eight cubic feet. The eighty-five square feet of storage shown on the application exceeds one hundred and twenty-eight cubic feet.

Attorney Caponera read Village Code 242-5-H (1) (g), which states no more than one vehicle is utilized in the home occupation and no commercially licensed vehicle is utilized. Mr. Furnari stated his commercial vehicle is his personal vehicle as well.

Attorney Caponera read Village Code 242-5-H (I), which states that no equipment which is used shall create noise, vibration, or odors.

Attorney Caponera stated these are the items in identifying the home occupation and the reason it was brought to the Planning Commission to ask questions. It will require a public hearing if he chooses to move forward. A public hearing is required at both Zoning and Planning if moving forward.

Commissioner Kendall asked Mr. Furnari if he was requesting to operate a home business. Mr. Funari stated he is looking to build a garage that allows him to store his inventory for his business as well as do his woodworking. Commissioner Kendall asked if he is looking to conduct business out of this garage. Mr. Furnari stated it generates no revenue, there are no customers, his truck and trailer are his business. Commissioner Kendall asked if the Commission was looking at the application as a home occupation. Mr. Furnari asked if home occupancy means generating income. Commissioner Kendall asked if the inventory that is being stored is the only way you can conduct your business without a physical address. Mr. Furnari said no, the inventory is for his convenience. He does not need to have an inventory. He said no one comes to him. Mr. Furnari stated he goes to the customer to provide the service.

Attorney Caponera stated this is a home occupancy.

Commissioner Curran asked if the Commission denies the home occupancy does that mean he cannot build his garage. Mr. Furnari asked if he rents a storage unit for his inventory, does that take away the home occupancy? He stated he can rent a storage space for his inventory.

Attorney Caponera stated if he amends his application and takes out any business use, he will go back to Zoning for approval.

Based on the record Mr. Furnari withdrew his application for Change of Occupant/Home Occupancy.

**Change of Occupant**  
**8 Wolf Road**  
**Prince Tea House**

Ms. Ping Lin and her son as speaker/translator appeared before the Commission. Ms. Lin submitted a new floor plan and site plan that showed the shared parking with 10 Wolf Road and landscaping.

Chairman Dennis stated that the parking as shown is sufficient and asked if there is a cross-easement agreement in place for shared parking with 10 Wolf Road. Village Attorney Caponera stated at the previous meeting it was verified that there is a shared agreement between 8 and 10 Wolf Road for parking.

Chairman Dennis stated that he wanted the landscaping plan to be updated and show what is in place and what they propose. Ms. Lin would like to remove the decorative pond, which is in poor condition, and the surrounding plants. They would like to repave the area and put in grass. There will be no outdoor dining.

Commissioner Martin stated the plan presented does not represent the landscaping that is currently there. Village Engineer Laberge stated he will call the architect and discuss what is required.

Commissioner Hart asked if changes are being made to the floor plan. It was stated again that the seating capacity is the same number of seats. The layout is different. Commissioner Martin asked for dimensions to

be placed on the floor plan. Village Engineer Laberge will contact the floor plan designer to request the dimensions be added.

Commissioner Martin stated the dumpster area needs to be cleaned up.

### **Site Plan Application**

**3 Fritz Blvd.**

**T-Mobile/SBA Communications**

No representative from T-Mobile/SBA Communications was present.

Chairman Dennis asked Attorney Village Caponera if we needed a public hearing. Attorney Caponera stated no because it is an upgrade of equipment.

Chairman Dennis asked Village Attorney Caponera and Village Engineer Laberge if they had reviewed the documents and if we could act on the application without a representative being present. It was determined the Commission could act on the application.

Commissioner Martin stated the application is adding additional receivers within the existing tower but no extension to the tower height.

Commissioner Martin made a motion to approve the Site Plan Amendment for T-Mobile/SBA Communications located at 3 Fritz Blvd. Commissioner Hart seconded.

**Vote:** unanimous to approve

### **Site Plan Application**

**1535-1539 Central Ave.**

## **Taco Bell**

Mr. Tim Freitag, Bohler Engineering appeared before the Commission.

Mr. Freitag presented in support of the resubmission from the August meeting. He handed out email correspondence recently received from NYS DOT regarding a review of the site plan with right in/right out. DOT has responded to their comments on the plans, the traffic study, and comments to date.

Mr. Freitag reviewed the DOT email.

General DOT Comments 1-5 dealt with paperwork issues and provided the required direction on the project.

DOT comments on the submitted project drawings included:

Sheet C-201 DOT requires the existing sidewalk and curb ramp at the southern end of the property to be shown and a six-inch reveal curb at the edge of the pavement be added.

Sheet C-3 DOT requires the curbed island to be offset from the edge of the pavement, truck turning lane be aligned, the sidewalk be continued through the driveway, provide details of the dimensions, callouts and signage, replace the existing DOT drainage structure, inspect, replace and repair any structures necessary, replace the existing curb ramp and make ADA compliant and replace the existing sidewalk along the frontage.

Sheet C-501 DOT requires all utilities to be shown on the plan.

Sheet C-903 DOT gave details and specs regarding curbs and sidewalks and requests that all standard DOT sheets regarding details and specs be added to the drawings.

Notes on traffic control during building construction were also included in the DOT response.

Mr. Freitag stated that an updated traffic impact study had been submitted that eliminated the right out onto Central Avenue and recirculated cars back to Nicholas Drive. The updated traffic study included Saturday midday peak hours. This is the highest generation of trips. With the right turn onto Central Avenue, thirteen new trips were generated with twelve pass by, and at Nicholas Drive, two new trips and one right trip. If the right out onto Central Avenue is eliminated, there are no right out, fifteen new trips generated and thirteen pass by trips.

Commissioner Hart asked if the right out was being eliminated and if DOT had approved the right out onto Central Avenue. Mr. Freitag stated that NYSDOT had reviewed the right out onto Central Ave. and had no issue with it as long as they addressed the design elements in the DOT report. Commissioner Hart asked where it was stated that DOT approved the right out onto Central Ave. Village Engineer Laberge stated that it would not have gotten to stage two review if they did not approve the right out. Commissioner Hart stated that he wants something in writing that specifically states that DOT is ok with the right out. Commissioner Martin asked if DOT had any issue with the Northway traffic. Mr. Freitag stated they had no comments in that regard.

Chairman Dennis asked if there were any other submissions since August 26, 2024, and that he would like to go over each item that had been addressed in Village Engineer Laberge's letter in response to that submission. He would like to ask the Commission how they stand on the issues.

Chairman Dennis requested clarification on the HME speakers that were new to the submission. Mr. Freitag stated that they have automatic volume control that adjusts the speaker volume against the ambient noise. Chairman Dennis stated he liked that it was not a manual control. Commissioner Hart stated that the levels submitted are below what Village Code 152-5, between the hours of 11PM – 7AM state. Mr. Freitag stated the levels can be adjusted to any level as needed.

Chairman Dennis asked Village Engineer Laberge about his comments on the EAF and required approvals. Engineer Laberge stated the EAF required no changes and work permits would not be given until an actual contractor had been chosen.

Parking and Access – A twenty-eight-foot aisle is proposed. Engineer Laberge asked if it can be reduced to twenty feet and provide more green space along Nicholas Drive. Mr. Freitag stated the twenty-eight feet allows for two lanes of traffic, twelve feet for drive-through and sixteen feet for additional backup space for que buildup. It also allows for a wider trash enclosure and deliveries to be made. Mr. Freitag stated there is a clearance bar on the drive-through as well.

Commissioner Martin asked how many cars could be backed up at any one time. Mr. Freitag stated four to five cars from the order point. It is designed for eight.

There was further discussion on how to obtain more green space. Mr. Freitag stated they could look to the east side to obtain more green space. Chairman Dennis stated that he does not want to see more green space to the east. Mr. Freitag stated they will take another look and try to find another foot or two of green space on the Nicholas Drive side and take into consideration the trash, snow removal and two lanes.

Drainage – Engineer Laberge stated more data is required to determine if drainage to the rear of the site is sufficient. Mr. Freitag stated they will be updating the survey. The berm was not extended all the way across because there is a natural low spot. Everything drains behind the buffer area (depression area). Properties behind and next to the proposed site all drain to the depressed area. Mr. Freitag stated the storm water for the site will be collected through underground storm water pipes, storm trenches and infiltration. They cannot collect the water from the residential properties. Chairman Dennis stated he did not see any water table levels or percolation tests. Mr. Freitag stated they have only done preliminary tests. Village Engineer Laberge stated that they can notify the Village when they are doing the tests.

Commissioner Martin asked about the barrier around the depressed area. He suggested a rain garden be considered which gives more green space and helps with the drainage in that area. Chairman Dennis suggested looking at the rear of Stewarts.

Mr. Freitag stated that there is no storm sewer currently servicing the site. They need to treat and reduce what is on site. DOT will not allow a new connection. The Commission likes the idea of the rain garden and understands why the berm is not being landscaped across.

Village Sewer Main- the easement does not get to the sewer (current ten-foot easement). Village Engineer Laberge suggests rather than moving the sewer that the easement be widened by five feet to fifteen. The issue becomes the sign in the easement for Nicholas Drive and Central Avenue. Mr. Freitag suggested working through the issue with engineering and DPW.

Snow Removal- needs to be noted on the drawings. Anything over two inches will be removed from the site.

Visibility of drive-through from the roadway was discussed. The Commission requested that a berm be installed to hide the pavement. The Commission wants to shield the driveway/ walkways from the traffic on Central Avenue. Village Engineer Laberge suggested this same treatment on the Nicholas Drive side of the building. Commissioner Martin would like to see a raised berm along the Nicholas Drive side.

Landscaping- Commissioner Martin stated that once the proposed landscaping is matured the trees will interfere with further growth. Commissioner Martin suggested that the spacing of the blue spruce and arborvitae on the berm be looked at. It was requested the trees be staggered to facilitate growth while still providing screening. Chairman Dennis requested that along Nicholas Drive the ink berry be changed to red berry holly.

Commissioner Martin asked about the mechanical equipment that will be installed, noise and if they will be running twenty-four hours a day. Mr. Freitag stated the HVAC will be roof mounted. Units will not be seen or heard. Mr. Freitag will provide decibel levels for the units. Compressor units make little noise.

Chairman Dennis asked the Commission for their feelings towards the right out.

Chairman Dennis – no problem with right out if taking more traffic off Nicholas Drive.

Commissioner Lemperle – no problem

Commissioner Splonskowski – no problem

Commissioner Curran – no problem

Commissioner Hart – right out is safety issue. If DOT provides documentation of approval, he will revisit/reconsider his decision.

Commissioner Martin- right out is a problem. It will create a backup on the site. The timing of the light on Nicholas makes it difficult to get in and out.

Hours of Operation- Chairman Dennis asked if corporate has considered the hours of operation for dining room and drive-through. Mr. Freitag stated that they have and are committed to match what other establishments on Central Avenue have been approved for which is 1 AM. Commissioner Martin stated he would like to see the dining room close at 10 PM and the drive-through close at 11PM. Chairman Dennis asked for the volume of customers in the evening, especially the later hours, in particular Friday and Saturday night. Mr. Freitag will obtain the information and share it with the Commission.

Commissioner Lemperle- good with 1AM. Wendy's set the precedent.

Commissioner Kuentzel- good with 1AM

Commissioner Curran- good with dining closing at 10PM and the 1AM

Commissioner Splonskowski- would like to see the statistics.

Commissioner Kendall- would like reduced hours.

Commissioner Hart- would like 10PM or 11PM but has no problem with 1AM

Chairman Dennis- would like to see the statistics.

Mr. Freitag will address the comments from the meeting and resubmit them to the board.

Discussion:

Trustee Prevratil stated the Mayor and Board of Trustees are addressing the issue of special permits with the Village Code in addition to the Grouper Laws.

Commissioner Martin requested the Mayor and Board of Trustees review the Town's policy on home occupation and consider adopting some of the requirements including building department review annually of approved home occupation.

Review of future agenda items.

Commissioner Hart made a motion to adjourn the meeting at 8:30PM.  
Commissioner Martin seconded the motion.

Vote: unanimous to adjourn

Respectfully Submitted,

Joan Rueckert - Planning Coordinator