



# TOWN OF AMENIA

4988 Route 22, AMENIA, NY 12501  
TEL: 845-373-8860, x106 FAX: 845-373-9147

## SPECIAL PLANNING BOARD MEETING THURSDAY, OCTOBER 25, 2012 7:00 PM - 2<sup>ND</sup> FLOOR

PRESENT: Chairwoman Peek  
Tony Robustelli  
Peter Clair  
Nathan Roy  
Norm Fontaine  
Larry Moore  
Ian MacDonald, Attorney  
John Andrews, Rhode, Soyka & Andrews

ABSENT: James Walsh

MOTION TO OPEN THE SPECIAL PLANNING BOARD MEETING OF OCTOBER 25, 2012 was made by Norm Fontaine, seconded by Tony Robustelli

VOTE TAKEN - MOTION CARRIED

**Leedsville Road**

**Major Site Plan**

**486 Leedsville Road  
Amenia, NY**

Brian Houston gave the Board a complete revised package for Leedsville Road – Major Site Plan/Special Use Permit. Chairwoman Peek asked that Brian review the changes from the last submission. The major change to the plan was that they provided information for erosion control. Mr. Houston showed the three proposed doorways and the proposed lighting. Ms. Peek asked whether Mr. Houston was a New York State licensed engineer. He stated no. She noted that because Mr. Houston was not a licensed engineer, he could not sign or seal site plan drawings with any proposed structures. Mr. Houston stated when this was talked about at the last meeting he thought that everyone agreed that it was OK because the survey does not really show any engineering. Mr. Andrews from Rhode, Soyka & Andrews stated that the Planning

Board could waive this requirement for a plot plan but would require that a note be placed on the survey certifying that the building shape and footprint is consistent with any architectural drawings prepared by a licensed architect which would be required to get a certificate of occupancy. Then the plot plan would be signed by the surveyor and supplemented by the architect signature. Mr. Andrews also noted that the Board could waive the requirement altogether. Ms. Peek asked that any plans that are to be submitted to the Building Inspector will come from the architect. Mr. Houston said yes.

Ms. Peek asked if the part two EAF changes were complete. Mr. Houston stated they had all been made per Julie and John's comments. The application will be referred to Dutchess County Planning as the parcel is on a County Road.

MOTION TO SET A PUBLIC HEARING FOR LEEDSVILLE ROAD ON NOVEMBER 29, 2012 was made by Ms. Peek, seconded by Peter Clair

VOTE TAKEN - MOTION CARRIED

**Cumberland Farms**

**Site Plan-Discussion**

**3333-3339 Rte. 343  
Amenia, NY**

Robert Osterhoudt from Bohler Engineering representing Cumberland Farms spoke to the Board about some of the changes that have been made and some of the items that were discussed at the last meeting. The applicant is going to take over the vacant space and occupy the whole building. They want to improve and upgrade the existing façade, the canopies, the fuel systems, new tanks, new dispensers, new fuel lines. They are also looking to upgrade the signage. At the last meeting it was discussed that the existing signage height needed to be reduced. Bohler discussed with Cumberland Farms about the signage and they came back with a plan that reduces the height requirement and they also reduced signage and square footage that is included in the plan. Mr. Osterhoudt noted that they were satisfied that their proposed signage is compliant with the Zoning Code regulations. The site plan application package has been submitted to the Board as well as John Fenton. Red Box is no longer on the plan. Ms. Peek noted that based on discussion with Mr. Fenton for the most part the signage complies with the exception of the signage on the canopy above the gas pumps which exceeds the standard. Mr. Fenton had noted that the Applicant intends to go to the Zoning Board of Appeals to get a variance for the canopy signage. Mr. Osterhoudt stated that Bohler reviewed the Code and also Cumberland Farms legal team reviewed the Code and they all felt the application is compliant because we feel the canopy signs would be classified as building signs since they are on a canopy that has a foundation. Ms. Peek stated that it was up to the Applicant and the ZBA to interpret the Code. However, if the Applicant would like to classify the canopy signs as building signs (and not awning signs), the Code limits the signage to 10% coverage, which would limit the maximum allowable signage

size of 7 square feet. Ms. Peek noted that the Applicant is actually better off interpreting the canopy sign as an awning sign, because this would allow the signs to be larger. However, it is up to the Applicant as to which interpretation they seek from the ZBA.

If the Applicant decides to go to the ZBA, they would return to the Planning Board after that process has completed. Once they return, the application would be referred to Dutchess County Planning, because they are located on a State Road. Ms. Peek noted that Dutchess County will ask Cumberland Farms to do more on the Landscape Plan so Cumberland may want to address this before it goes to the County. Ms. Peek suggested more landscaping on the front of the property along the Route 343 side, replacing the chain link fence, additional landscaping along the side, and possibly something that provides a little more screening from the road. Norm Fontaine brought up the fact that tractor trailers park along the sidewalk in front of Cumberland Farms, and people with cars pulling out must be in the road to see if another car is coming. The local police have sometimes gone into Cumberland Farms and made the tractor trailer drivers move their trucks. The suggestion was made to perhaps request No Parking signs. Nathan Roy asked what the purpose of the chain link fence was. Mr. Osterhoudt explained that that grade drops off to the creek from the adjacent sidewalk and the fence is old and in poor condition. They are proposing a new vinyl coated fence. It is also a safety issue with the creek there. Peter Clair suggested they look across the street at what Dollar General needed to do. Mr. Osterhoudt felt it best to go to the Zoning Board for a variance then return to the Planning Board.

#### **OTHER MATTERS:**

**14 Yellow City Road** - Anthony Poveromo came before the Board to inquire on building a home on his property. Ms. Peek stated Mr. Poveromo came to the former Zoning Enforcement Officer last year and was told they didn't need any additional approval to build a second home on their lot which is 6.9 acres. They proceeded to get Board of Health approvals and septic which were all approved. When Mr. Poveromo came to the Building Department and spoke with John Fenton, Mr. Fenton felt that he needed Planning Board approval. Ms. Peek proceeded to say there is a provision in the Zoning Code allowing a second home to be built on the property with site plan approval from the Planning Board. It is in the SR Zone. Attorney MacDonald's interpretation of 121-12.D indicates that the applicant is allowed to have two primary residences on the lot – as long as there is sufficient acreage-without Site Plan approval. Mr. Poveromo has the appropriate acreage so therefore, does not need to come to the Planning Board for site plan approval. He needs approvals from the Building Department.

Mr. Poveromo's application fee was returned and Ms. Peek directed him back to John Fenton, Building Inspector.

**Planning Board Training** - Ms. Peek asked if everyone remembered they must do 4 hours of training each year. She continued that the requirement would be waived this year, however, next year if it is not completed, members cannot remain on the Board.

**Kent Hollow Mine:** After Ms. Peek gave the Board an overview of the Kent Hollow Mine she discussed the current status of the Application. The Kent Hollow Mine property is not located within in the SMO and is therefore not allowed to be mined - under the current zoning. Kent Hollow Mine has been in single ownership for many years and maintain they have been consistently mining and under DEC since 1989. They have just applied to DEC to get a permit to increase the volume of material being excavated from the site, despite the fact they are not in the SMO. DEC wrote a letter to the Town of Amenia several years ago declaring their intent to serve as lead agency for the action and asking the Town if we wanted to contest their lead agency status or be co-lead agent. Michael Hayes wrote a long letter and Ian MacDonald followed up that letter more recently saying that we reserve the right to review this application during our own SEQRA process as it is not in conformance with our zoning. They will be required to come to the Town Board for a Zoning change like Ridgecrest Mine did. Only a Zoning map amendment would allow them to operate legally as a mine. The applicant stated they did not need to rezone because they were grandfathered in as they have been taking material out of the site for over 20 years. DEC declared themselves lead agency for their review and their intention is to issue a permit. The DEC issued a negative declaration saying there is no environmental impact, stating that whatever land use issue Kent Hollow has with the Town, is not a factor in DEC's determination. If Kent Hollow Mine is granted a permit from DEC, they contend that they can start mining immediately without any additional approvals from the Town. The Town would then have to issue a violation because it is not compliant with our underlying zoning. Norm Fontaine said at that time they would have DEC approval. Ms. Peek said they would have a permit from DEC. Either way this will end up in a law suit on behalf of the Town. The position the Town and the Planning Board have taken is to be proactive and provide comment that the DEC cannot issue a permit without resolving the underlying municipal zoning noncompliance. Both the Planning Board and the Town Board are preparing letters to DEC indicating that DEC has not considered all of the factors in their review and as a result the Town contests their determination of non-significance. The Town will also contest the DEC soil mining permit. The more people in the Town who weigh in on this the better it will be for the Town. Norm Fontaine asked if DEC has monitored the operation on what has been taken out of the mine and how do they know that the mine has been active? Ms. Peek said it has not been monitored. DEC takes the applicant's word for it. Attorney MacDonald stated DEC has taken the position that that is not their concern between the applicant and the Town. Ms. Peek has written a letter on behalf of the Board regarding a review of the EAF. The Town has retained separate counsel, David Everett, who is writing a letter to DEC on behalf of the Town. Ms. Peek continued if the DEC issues the permit, the Town is entitled to impose certain conditions on that permit. Board members requested contact information so that they may write to DEC to express

the Town's interest in protecting our zoning. Ms. Peek will get the contact information as the comment period to DEC ends Monday, October 29<sup>th</sup>.

MOTION TO ADJOURN THE SPECIAL PLANNING BOARD MEETING was made by Tony Robustelli, seconded by Peter Clair

Respectfully submitted,

Susan M. Metcalfe  
Planning Board Secretary

The foregoing represents unapproved minutes of the Town of Amenia Special Planning Board from a meeting held on October 25, 2012 and are not to be construed as the final official minutes until so approved.

\_\_\_\_\_Approved as read

\_\_\_\_\_Approved with: Deletions, corrections, and additions