

14'x40' shed over existing parking spaces. Mr. Eldred informed Mrs. Burke that she will have to submit a variance application to the ZBA due to the parking situation and a 239 Review will have to be submitted by the Town to Broome County Department of Planning and Economic Development because the property is within 500' of a State Road (NYS Route 369). Also, an engineered site plan needs to be submitted. Mrs. Burke stated that she attached a site plan with the information that she submitted to the Planning Board; however, John Mastronardi of Griffiths Engineering said the site plan she submitted was when APEX was in the building and a new site plan would need to reflect the proposed changes that Mrs. Burke is making. (It should include the shed and the reconfiguration of the parking accordingly.) John also explained that the zoning requirements need to be met for the use of the property which includes 19 parking spaces for the office building and five parking spaces for the warehouse. Right now the site has 16 spaces so it is eight spaces short; by adding a shed, six spaces would be eliminated so there would be a shortage of 14 spaces in meeting the zoning requirement. Mrs. Burke may obtain the ZBA Variance Application from Town Clerk Melodie Bowersox to start the process.

Introduction of Planning Board Members and other Town Officials – An unidentified lady from the audience asked that the Planning Board Members and other Town Officials sitting at the Town Board meeting table introduce themselves. The Planning Board Members, Tina Fernandez, John Mastronardi, and Melodie Bowersox were introduced.

Old Business

White Knight Storage (Nelson Ellis Realty Corp. Building) – 136 East Service Road – Terry Deamer (who was not present at the meeting) is proposing an indoor and outdoor combined storage facility called White Knight Storage at the old Nelson Ellis Realty Corporation Building, located at 136 East Service Road. Mr. Eldred said there is a concern that the structural capacity of the containers does not meet the NYS Building Code with regard to roof load. Also, Terry will need to provide a scaled map to the Planning Board and a 239 Review will need to be submitted to Broome County Department of Planning and Economic Development because the property is within 500' of Chenango Street and NYS Route 88. Mr. Keough commented that he believes there is an interstitial space in the building and he does not believe there are sprinklers in it. John said that he and Assistant Town Engineer Rick Armstrong will take a look at that.

Carrier Services Group – 1151 Hoyt Avenue – The zoning has not been changed from Residential-B to Limited Industrial at 1151 Hoyt Avenue. Atty. Fernandez said that the Town Board per the Town Code is looking to the Planning Board to review the zoning change and whether or not the Planning Board will make a recommendation to the Town Board to rezone. Atty. Ken Kamlet, Attorney Representative for Carrier Services Group, noted that in addition to the comment made by Atty. Fernandez, site plan approval by the Planning Board is a prerequisite to going forward. Mr. Eldred replied that the Planning Board cannot make a site plan approval until the rezoning has been done and the Planning Board will be turning that back to the Town Board. An unidentified gentleman from the audience asked if Atty. Fernandez and Atty. Ken Kamlet were from the same law firm. After Atty. Fernandez answered yes, he asked if this was a conflict of interest. Atty. Fernandez replied that it was not a conflict of interest after being addressed through the Town Board. Atty. Millus addressed this issue with the Town Board and contacted the New York State Office of Professional Conduct to inquire whether or not in this particular circumstance it was a conflict. They sent the opinion that determined it

was not and the Town Board made a resolution indicating that it was not a conflict, but if the Planning Board separate from that wants to determine that it is a conflict for Atty. Fernandez to appear as their counsel on this matter, they can address that as well. An unidentified lady asked if Atty. Fernandez had a copy of the opinion that Atty. Millus received and she said she did not have a copy of it.

Mr. Eldred opened the floor up for discussion on the attorney conflict.

- Mr. Keough – Mr. Keough said he is not comfortable with the attorney situation as it stands right now.
- Mr. Standard – Mr. Standard said it is not the best situation.
- Resident Bill Bowie read from the May 3rd, 2017 Town Board Minutes, "Atty. Ken Kamlet, Special Council for Hinman, Howard and Kattell and a Partner in the firm, represents the property owner. There has been discussion and concern regarding a conflict of interest with Atty. Millus representing the Town. An inquiry was made to the New York State Bar Association Committee of Professional Ethics as to whether the law firm can continue to represent both parties. Atty. Millus was advised that the Committee is not going to be meeting in the near future. A member of the Committee did give Atty. Millus an informal opinion, which was that he feels it is okay for the two Attorneys to represent both parties as long as there is an agreement from each party in writing to allow the representation. If it gets to a point where it becomes an issue it will need to be discussed." Bill said he would not act upon this himself but that is up to the Planning Board.
- Mr. Mullins – Mr. Mullins said he feels the attorney conflict needs to be cleared up.
- Mr. Aurelio – Mr. Aurelio agreed that it is a conflict to have the Attorneys from the same law firm representing the Town and Carrier Services Group.
- Mr. Randall – Mr. Randall agreed with Mr. Aurelio.
- Mr. Eldred – Mr. Eldred said he did not have a problem with it.
- Mr. Keough – Mr. Keough recommended that the attorney conflict be cleared up before the Planning Board proceed any further.
- An unidentified gentleman then asked, "You said it would be held over, til when?" Mr. Eldred replied that the next Town Board Meeting is the first Wednesday of the month.
- Resident Bill Bowie asked if it would be addressed in tomorrow's Work Session and the reply was probably not. Mr. Keough further added that the Planning Board really cannot take any action until the attorney conflict issue is resolved. Once this is resolved, the Planning Board can decide if they would or would not like to make a recommendation to the Town Board on the rezoning of Hoyt Avenue.
- An unidentified lady asked what zoning changes needed to be made. Mr. Keough gave a little history of the property, explaining that currently the property at 1151 Hoyt Avenue is zoned Residential-B and would need to be changed to Limited Industrial for the Carrier Services Group project. Resident Tom Tiffany added that when the Depot was going through environmental issues, they worked with the Defense Logistics Agency to make sure that it was cleaned up to the highest standards so that it could be zoned Residential-B. The question he now sees is that if it is rezoned, caution should be taken because it is difficult to control what goes in after this business. He noted that this was addressed in the 239 Review done by the County as well.
- John Mastronardi said that the Planning Board can still make a recommendation to the Town Board as to whether the property should be rezoned or not. Mr. Keough asked John if there was a legal question during the discussion, where would they go. John

replied they would table the discussion until they had legal coverage. Mr. Keough said that he preferred to wait until the attorney matter was cleared up; Mr. Aurelio concurred with him.

- Resident Andrea Mayer said the Depot is in her backyard and she would like to know what the project is comprised of. Her understanding is that it is the refurbishment of cell phone towers then put up for resale. Are they going to be manufacturing any parts there? Will they be cleaning any parts, and if so, will they be using any toxic chemicals and what are their names? Mr. Keough said that those questions will be answered during the process of the project being approved.

The Planning Board chose to take no action regarding the rezoning of 1151 Hoyt Avenue pending resolution of the attorney conflict issue by the Town Board.

At 7:30 pm, **Mr. Eldred adjourned the meeting.**

Melodie A. Bowersox, Town Clerk