

TOWN OF EAST GREENBUSH PLANNING BOARD

TOWN HALL, 225 COLUMBIA TURNPIKE, RENSSELAER, NY 12144 (518) 694-4011 | FAX (518)477-2386

MEMORANDUM

EAST GREENBUSH PLANNING BOARD MEETING MINUTES SEPTEMBER 25, 2024

Members:

Matt Mastin, Chairman
Bob Jucha, Member
Ralph Viola, Member
Mike Tierney, Member
Chris Horne, Member
John Conway, Member

Also Present:

Dan Rodriguez, Co-Director of Planning & Zoning
Josh Giller, Co-Director of Planning & Zoning
Vincent Meade, Secretary
Joseph Slater, Planning Board Attorney

CALL TO ORDER / DETERMINATION OF QUORUM

Chairman Mastin called the meeting to order and determined that a quorum of six (6) members were in attendance. Kurt Bergmann was absent.

PUBLIC HEARINGS

There were no public hearings before the board at this time.

OLD BUSINESS:

(19-01a) Martin Electric-164 Columbia Tpke-Major Site Plan/SUP – Review for Conditional Approval of Special Use Permit & Recommendation to Town Board

Steve Hart from Hart Engineering, representing the applicant, recapped changes made to the site plan since the last meeting. As per the board's recommendations, the spacing of the trees has been condensed to 15 ft on-center and the trees will now be 8 ft tall. A portion of the rear side of the property will retain the 20 ft on-center spacing.

Chairman Mastin asked if there were any questions before the board:

- Conway confirmed with Hart that lighting concerns, as well as those related to hours of operation will be added to the site plan, as discussed in the last meeting. Hart wrote the concerns onto the site plan during the meeting to ensure this.
- Tierney confirmed with Hart that parking towards the rear of the property would typically be of commercial vehicles. Given the number of spaces on the lot, Hart does not anticipate much of an effort from the public to occupy those spaces. Horne confirmed with Hart that eight (8) to ten (10) commercial vehicles are parked in that area. Mastin confirmed with Hart that there are about fourteen (14) ADA designated parking spaces in the proposed six hundred (600) space parking lot. Hart signified openness to adding more ADA designated parking spaces if deemed necessary.

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- Mastin stated Town Resident David Terpening's email request and noted that Terpening has been present during the public hearing period for this project in 2019. Mastin signified his openness to Terpening's scheduled meeting with the Town Supervisor; however, Mastin stated, with additional clarification from Rodriguez and Giller, that the major site plan resolution to be voted on during this evening is a recommendation to the Town Board. The Town Board, where the Supervisor is a member, is the final authority in regard to major site plans, where there will be a public hearing.

Being that there were no further questions or comments from the board,

MOTION: A motion was made by Chairman Mastin as follows: **The Town of East Greenbush Planning Board hereby approves the Special Use Permit;**

Whereas, the proposed garage is a "Structure; commercial garage or shed" as defined in the Town's Comprehensive Zoning Law ("CZL"); and

Whereas, a "Structure; commercial garage or shed" is allowed in the B-1 zone as an Accessory Use with a Special Use Permit; and

Whereas, on April 10, 2019, approval of the Special Use Permit for PZD 19-01 was granted for the construction of a 3,900 sqft commercial garage for the property located at 164 Columbia Turnpike; and

Whereas, a post-construction inspection from the Town of East Greenbush Building and Code Enforcement Department determined that the construction of said commercial garage exceeded 3,900sqft, which is in direct violation of the terms of the Special Use Permit; and

Whereas, the Town of East Greenbush Building and Code Enforcement Department has issued an Order to Remedy to the Applicant; and

Whereas, on May 23, 2024 an updated application was filed by the Applicant proposing the construction of one (1) 48' x 62' enclosed cold storage garage, one (1) 40' x 62' enclosed cold storage garage, and the post-construction approval of a 5,100 sqft commercial garage for the property located at 164 Columbia Turnpike, Rensselaer, NY 12144. The subject property is located in the B-1 zone. This application has been examined for compliance with the applicable provisions of the CZL and the Town Code of East Greenbush; New York State Town Law Section 274-b and Section 3.11 of the Town's CZL, on an application for a Special Use Permit to construct the Commercial Garages, which is required Per Section 2.7.2.D of the Town's CZL (Structure; Commercial garage or shed); and

Whereas, the applicant has filed an application requesting a Special Use Permit at the property located at 164 Columbia Turnpike, Rensselaer, NY 12144 (Tax Map No. 155.13-21-13) for the above mentioned commercial garages; and

Whereas, the Planning Board has duly published a notice of public hearing regarding this appeal in The Record on July 11, 2024; and

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Whereas, notice of the initial Public Hearing was provided by Certified Mail to the owners of all property within 200 feet of the land involved in the application, to the Town Planning Board, and to the Rensselaer County Bureau of Economic Development and Planning; and

Whereas, a Public Hearing was held by the Planning Board on Wednesday, July 24, 2024 in the Town Hall of the Town of East Greenbush to consider this appeal; and

Whereas, at this hearing, the applicant as well as any and all persons interested in this appeal were heard, their statements recorded, and various written material including exhibits, if any, were entered into the record; and

Whereas, all statements, written material and exhibits submitted in connection with said appeal have been carefully considered; and

Whereas, this proposal was reviewed in conjunction with the Applicant's proposal for a revised Site Plan in accordance with the State Environmental Quality Review Act ("SEQRA") with the Town of East Greenbush Town Board acting as lead agency; and

Whereas, the Town Board, acting as lead agency under the State Environmental Quality Review Act ("SEQRA"), issued a negative declaration regarding the Applicant's proposal by Resolution No. 146-2024 on June 20, 2024; and

now, therefore, be it

Resolved, that the Planning Board makes the following findings of fact:

1. The location and size of the commercial garages, the nature and intensity of the operations involved, the size of the site in relation to the garages, and the location of the site with respect to the existing of future streets providing access, is in harmony with the orderly development of the B-1 district.
2. The location, nature, and height of the commercial garages, walls and fences, and the nature and intensity of intended operations, will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
3. All proposed traffic accessways are adequate and not excessive in number; the accessways are adequate in width, grade, alignment and visibility and are not located less than 25 feet from street corners or other places of public assembly; and meet similar safety considerations.
4. Adequate provision for safe and accessible off-street parking and loading spaces have been made as part of the proposal.
5. All parking and service areas will be screened at all seasons of the year from the view of adjacent residential lots and streets and the general landscaping of the site and are in character with that generally prevailing in the neighborhood. The landscaping will include the preservation of existing trees over eight inches in diameter to the maximum extent possible.
6. The character and appearance of the proposed commercial garages are in general harmony with the character and appearance of the surrounding neighborhood and are not more objectionable to nearby properties by reasons of noise, fumes, vibration, or principal lights, than would be the operations of any permitted use and shall not

adversely affect the general welfare of the inhabitants of the Town of East Greenbush.

Resolved, that the application for a Special Use Permit for the construction of one (1) 48' x 62' enclosed cold storage garage, one (1) 40' x 62' enclosed cold storage garage, and the post-construction approval of a 5,100 sqft commercial garage for the property located at 164 Columbia Turnpike, Rensselaer, NY 12144 is approved with the following conditions:

1. The applicant shall comply with all conditions specified in the corresponding site plan approval, including but not limited to, requirements regarding lighting and hours of operation as indicated on the approved site plan.
2. This Special Use Permit is subject to renewal 60 days after the issuance of a Certificate of Occupancy by the Planning Board to ensure compliance with the conditions herein.
3. The applicant shall remove all existing Conex trailers from the property.
4. The applicant shall remove all existing crusher run areas and replace them with greenspace and/or landscaping as approved in the site plan.
5. The applicant shall install a berm and landscaping in compliance with the approved site plan.
6. The applicant shall relocate their dumpsters and install a dumpster enclosure in accordance with the approved site plan.
7. The applicant shall ensure that a designated snow storage area is available during winter months, and this area shall be maintained in accordance with the approved site plan.
8. All other proposed improvements shall be implemented in strict compliance with the approved site plans.
9. The applicant shall ensure that all commercial vehicles associated with Martin Electric are parked or stored only within the designated parking areas specified on the approved site plan. Parking of commercial vehicles in non-designated areas, including greenspace or landscaped areas, is strictly prohibited.
10. The applicant shall submit a parking management plan to the Planning Board within 30 days of the issuance of the SUP. This plan must outline measures to ensure compliance with designated parking areas for commercial vehicles and to prevent unauthorized parking or storage in non-approved areas.
11. The applicant shall restore any disturbed or encroached areas on adjacent properties, including easements, to their original state. Restoration shall be completed with appropriate native vegetation or other approved methods, subject to review and approval by the Planning Board.
12. The applicant shall conduct regular maintenance of all landscaping, berms, and buffer areas to ensure they remain in good condition and effective as screening. Any dead or dying plants must be replaced within 30 days to maintain compliance with the approved site plan.
13. The applicant shall not use the property for the open storage of materials associated with Martin Electric or any other businesses unless explicitly approved as part of this SUP or a subsequent amendment to the site plan. All materials and equipment must be stored within the approved enclosed structures or designated storage areas.
14. This Special Use Permit is valid until March 26, 2025 (6 months), at which time the applicant must renew the Special Use Permit with the Planning Board to ensure the applicant has been compliant with the conditions stated herein, which can be extended through an inspection by the Planning Department to ensure compliance with all requirements of the Special Use Permit.

Seconded by Tierney and roll called as follows:

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M. MASTIN – YES; R. VIOLA – YES; C. HORNE – YES; R. JUCHA – YES; K. BERGMANN – ABSENT; M. TIERNEY – YES; J. CONWAY - YES

MOTION CARRIED BY A 6-0 VOTE

MOTION: A motion was made by Chairman Mastin as follows:

WHEREAS, Turnpike Redevelopment Group LLC (herein referred to as the “Applicant”) has submitted an updated application for the construction of one (1) 48’ x 62’ enclosed cold storage garage, one (1) 40’ x 62’ enclosed cold storage garage, and the post-construction approval of a 5,100 sq. ft. commercial garage for the property located at 164 Columbia Turnpike, Rensselaer, NY 12144; and

WHEREAS, the Project is located in the General Business Mixed Use District (B-1) zone and has been examined for compliance with the applicable provisions of the Town’s Comprehensive Zoning Law (“CZL”) and the Town Code of East Greenbush, New York State Town Law Section 274-b, and Section 3.11 of the Town's CZL regarding the application for a Special Use Permit to construct Commercial Garages, which is required per Section 2.7.2.D of the Town's Comprehensive Zoning Law (Structure; Commercial Garage or Shed); and

WHEREAS, the Planning Board granted a Special Use Permit on April 10, 2019, for the construction of a 3,900 sq. ft. commercial garage on the property; and

WHEREAS, a post-construction inspection by the Town of East Greenbush Building and Code Enforcement Department determined that the constructed commercial garage exceeded 3,900 sq. ft., which violated the terms of the originally granted Special Use Permit; and

WHEREAS, the Town of East Greenbush Building and Code Enforcement Department issued an Order to Remedy to the Applicant in response to the violation; and

WHEREAS, the Applicant subsequently submitted a revised application on May 23, 2024, seeking approval for additional cold storage garages and post-construction approval for the 5,100 sq. ft. commercial garage; and

WHEREAS, the Town Planning Board of the Town of East Greenbush has reviewed the application and related materials, including the site plan entitled “4-18-2024 C100_SITE Proposed Storage Building Additions-REV-C100”; and

WHEREAS, this proposal was reviewed in accordance with the State Environmental Quality Review Act (“SEQRA”) with the Town of East Greenbush Town Board acting as lead agency; and

WHEREAS, the Town Board, acting as lead agency under the State Environmental Quality Review Act (“SEQRA”), issued a negative declaration regarding the Applicant’s proposal by Resolution No. 146-2024 on June 20, 2024; and

WHEREAS, the Planning Board has conducted a thorough review of the updated Special Use Permit application submitted by the Applicant on May 23, 2024, and has determined that the proposed project meets the necessary requirements in accordance with Section 3.11 of the Town’s Comprehensive Zoning Law and, following due process, the Planning Board has granted approval of the Special Use Permit on September 25, 2024, for the construction of one (1) 48’ x 62’ enclosed cold storage garage, one (1) 40’ x 62’ enclosed cold storage garage, and the post-construction approval of the 5,100 sq. ft. commercial garage located at 164 Columbia Turnpike, Rensselaer, NY 12144; and 2

WHEREAS, the applicant is required to return for a compliance review by the Planning Board no later than March 26, 2025, to ensure that all conditions outlined in the Special Use Permit and Site Plan are being adhered to; and now, therefore, be it

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RESOLVED, that the Town Planning Board hereby recommends that the Town Board approve the Martin Electric Major Site Plan application as set forth in the Site Plans entitled “4-18-2024 C100_SITE Proposed Storage Building Additions-REV-C100,” subject to the following conditions:

1. Prior to the issuance of a building permit, the Applicant must address any remaining technical comments from the Town’s Designated Engineer and the Town Planning and Zoning Department.
2. Prior to the issuance of a building permit, all remaining fees must be paid to the Town.
3. The plans must be signed by the Planning Board Chairperson and the Commissioner of Public Works.
4. The Applicant must comply with the conditions of the Special Use Permit approval by the Planning Board. The plans must include a note stating the date of Planning Board Special Use Permit approval and any conditions required as part of this approval.
5. The Applicant must relocate their dumpsters and install a dumpster enclosure in accordance with the approved site plan.
6. The Applicant must remove all existing Conex trailers from the property.
7. The Applicant shall remove all existing crusher run areas and replace them with greenspace and/or landscaping as depicted in the site plan.
8. The Applicant shall install a berm and landscaping in compliance with the approved site plan.
9. The Applicant shall ensure that a designated snow storage area is available during winter months, and this area shall be maintained in accordance with the approved site plan.
10. The Applicant must comply with all requirements of the Town’s Comprehensive Zoning Law, and State and Federal Laws not specifically referenced herein.
11. That the construction of the proposed improvements be subject to full time inspection by the Town’s Designated Engineer, at the sole expense of the applicant, to ensure that construction is performed in strict accordance with the Special Use Permit and accompanying site plan, as approved, and that the Town’s Designated Engineer confirms with the Town that the proposed improvements have been constructed in accordance with the approved Special Use Permit and Site Plan prior to the issuance of a Certificate of Occupancy.
12. That the applicant provides all required expenses related to the Town’s Designated Engineer’s full-time inspection of the construction of the proposed improvements in accordance with the Town Designated Engineer’s estimate to the Town prior to the issuance of a building permit.
13. That a construction schedule is provided to the Town and Town Designated Engineer prior to commencement of construction, and that the Town and Town Designated Engineer are notified of any proposed alterations to the construction schedule to allow for proper coordination between the applicant and the Town related to the Town Designated Engineer’s construction inspection services.

Seconded by Jucha and roll called as follows:

M. MASTIN – YES; R. VIOLA – YES; C. HORNE – YES; R. JUCHA – YES; K. BERGMANN – ABSENT; M. TIERNEY – YES; J. CONWAY - YES

MOTION CARRIED BY A 6-0 VOTE

OLD BUSINESS:

(24-02) Da Great Lounge-596 Columbia Tpke-SUP – SUP Review

Chairman Mastin notes that the applicant is present for a scheduled review of the SUP for his business following the six month period that was approved by the board in a resolution signed on February 27

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2024. The Chairman reviewed the history of the approval of the applicants SUP, as well as the conditions listed within it. Chairman Mastin noted that applicant was in violation several times of the following conditions:

6. The hours of operation will be as follows: Mondays-Closed, Tuesdays & Wednesdays 6pm-10pm, Thursdays 6pm to 12am, Friday & Saturday 6pm to 2am & Sundays 12pm to 9 pm with no karaoke.
 - Chairman Mastin cited numerous instances of the applicant operating his business outside of approved hours. Chairman Mastin also cited that several flyers of events at the location have events scheduled after approved hours. For example, an event scheduled for August 24 2024 was scheduled for 10:30PM-3:00AM, operating one (1) hour past approved hours. Chairman Mastin states that the correct procedure for the applicant to change hours would have been to go before the board with the changes in hours and get their approval.
7. The applicant strictly follows the noise ordinance in the Town of East Greenbush Town Code.
 - Chairman Mastin cited his personal his personal observations of the business as he was shopping in the Hannaford Plaza. Chairman Mastin stated he heard significant amount of noise from the venue after 10:00 PM. §35-5 Section F of Town Code forbids noise in excess of 75 dBA from emanating a property between the hours of 10:00PM and 7:00AM. By hearing the loud noise from the Hannaford, Chairman Mastin concluded that the venue was in violation of the noise ordinance and this condition.
8. There shall be no smoking in front of the business. All smoking is restricted to the rear of the business & a canopy be constructed at the rear of the business to establish a specific smoking area.
 - Viola stated seeing a man consistently smoking by the entrance to the venue.
12. The Special Use Permit as described in “Recreation; indoor; be limited to “karaoke” only. DJ’s, live musical bands or comedy shows, or similar alternate use or entertainment shall not be permitted.
 - Chairman Mastin and Slater cited that there were several events at the venue that featured DJs and other forms of entertainment, an explicit violation of this condition. Slater also noted that some of the flyers did not feature karaoke as form of entertainment at the venue. Mastin then clarified with the applicant that the organization of the events discussed was handled by a DJ the latter hired a few weeks ago to help the business.

Chairman Mastin asked the board if they had any questions or comments.

- Viola stated his concerns with the access control being in the form of a door being locked from outside and that the windows were tinted. Tierney added that safety issues emerge from either end of the door being locked, specifically citing delayed or hindered entry of emergency personnel.
- Viola also stated that the presence of a hookah lounge at the venue, as well as its inclusion of cannabis as a product that can be smoked from it, could be legally problematic. Chairman Mastin clarified that the town allows the purchase of cannabis products, but consumption on site is prohibited.

Overall, Chairman Mastin conveyed great disappointment in the applicant’s apparent lack of regard for the conditions that were set for the SUP. The Chairman then clarified how the SUP is supposed to work and further reiterates the proper procedure for altering the SUP. He then stated that by making these alterations without consulting the board, the applicant damaged the trust the board had with the applicant.

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Chairman Mastin stated that no action was to be taken by the board this evening. The Chairman then urged the applicant to review the terms of the SUP and develop steps that will be taken to abide by them. The applicant is to return in a few weeks to discuss the steps he will take to rectify the situation.

NEW ZBA REFERRALS:

ZBA Appeal #2024-12 Telasky-114 Hudson Ave-5 Area Variances for the Construction of an Attached Garage and 2 Additions

Conway has volunteered to write a report for this application. The report is due on the next Planning Board meeting on October 9 2024

ZBA Appeal #2024-08 Rytel-12 Virginia Ave-1 Area Variance for Garage

Jucha has volunteered to write a report for this application. The report is due on the next Planning Board meeting on October 9 2024

REVIEW AND APPROVAL OF MEETING MINUTES:

No meeting minutes were approved, as a quorum of members present during the June 26 2024 meeting was not fulfilled. Kurt Bergmann was absent.

Giller reported on progress with the comprehensive zoning law update. He also provided an update on the progress of the Gilligan Road street enhancements. GPI will be taking the lead on designs and that the design for the area near the East Greenbush Central School District will be in coordination with the district. The design process is expected to continue into next year with construction possibly starting in 2026. Giller stated that the proposed construction is planned to be incorporated in phases that would minimize disruptions to the corridor.

CLOSING

There being no further business before the Board, the meeting was closed by Chairman Mastin

All spoke in favor.

MOTION CARRIED BY A 6-0 VOTE

Respectfully Submitted

Vincent Meade, Secretary for Planning and Zoning