

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
October 10, 2018

Members:

Matt Mastin, Chairman
Mike Bottillo
Jim Moore
Nancy Kupiec
Kurt Bergmann
Ralph Viola

Also Present:

Joseph Slater, Planning Board Attorney
Alison Lovely, Planning Board Secretary
Adam Yagelski, Director of Planning & Zoning

CALL TO ORDER / DETERMINATION OF QUORUM

Chairman Mastin called the meeting to order and determined that a quorum of six (6) members were present. Matt Polsinello was absent.

PUBLIC HEARINGS:

NONE

OLD BUSINESS:

EG TECH PARK-TECH VALLEY DRIVE-GEIS APPEAL

(05-49B)

Adam introduced the proposal stating that the Town addressed GEIS fees according to schedule in the Town's Code and the developer appealed those fees on two grounds, one that the application is subject to a provision in the local law that provides for applications received by the Town prior to 2005 are assessed a 16% discount and the second is that there is a provision in the code, the GEIS local law that provides a cap for fees. Adam deferred to Phil Dixon who has been involved in preparing a recommendation. Phil Dixon gave his recommendation on the request. Kurt Bergmann asked if the initial fees were based on the initial construction phase or on the full build out. Chairman Mastin stated that the initial fees were just whatever the fees would've been at that time & now we're applying GEIS fees to Phase 2.

Greenbush Associates (the "Applicant") has appealed the Town of East Greenbush's determination of Generic Environmental Impact Statement ("GEIS") fees with respect to the East Greenbush Technology Park expansion project (the "Project"). The Applicant contends that the fee assessment by the Town exceeds the limits set forth in the local law that established such fees (the "GEIS Local Law"). The Applicant has also asserted that the Project is entitled to a 16 percent discount in such fees pursuant to the GEIS Local Law.

The Project involves the amendment of the Town's zoning map to establish the "East Greenbush Technology Park, Part 2 Planned Development District" on approximately 53.99 acres (the "PDD"). In addition, the Applicant proposed the subdivision of six lots within the PDD, which could accommodate 381,000 square feet of office/research/light industrial buildings. The Applicant also sought site plan approval for the construction of a 37,000 square foot building on one of the subdivided lots.

With respect to the discount in mitigation fees, the GEIS Local Law, which was enacted in 2010, provides for a graduated scale of discounts for projects that were commenced before the local law was enacted. The largest discount, 16 percent, covers "applications submitted before or during 2005."

The Applicant references several submittals to the Town that were made in 2004 and 2005 “relative to the original submittal that was tabled by the Town due to the Route 4 Corridor Study.” Although the site plan that was ultimately approved in 2018 for the 37,000 square foot building did not precisely match the earlier proposed location and size of the building, on the earlier submissions, the Applicant asserts that the proposed Part 2 of the Technology Park should be considered as a whole, and relate back to the earliest submissions.

The Planning Board believes that the Applicant’s position on the discount issue has merit. Since its inception, the consideration of the development proposed for Part 2 of the Technology Park has viewed the Project as encompassing the entire expansion area. For instance, the Final Environmental Impact Statement (“FEIS”) and Findings Statement address the potential impacts of the full Project. Accordingly, the Planning Board recommends that the mitigation fees be adjusted to include the 16 percent discount provided for in the GEIS Local Law.

The conclusion above is also instructive with respect to the Applicant’s assertion that the fee caps in the GEIS Local Law have been exceeded. Section 4 (c) of the GEIS Local Law states that “any fee charged via this law shall be capped at, and not exceed, the amounts set forth in 6 NYCRR 617.13”, part of the Department of Environmental Conservation (“DEC”) regulations implementing the State Environmental Quality Review Act (“SEQRA”). Those regulations provide limits upon what a SEQRA “lead agency” can charge for the review of a draft or final environmental impact statement with respect to a “project.” DEC’s regulations do not define a project, but the GEIS Local Law does. Section 2 of that law states that a “ ‘Project’ shall be defined as any action that is subject to the State Environmental Quality Review Act.” As previously noted, the Project as a whole was subject to SEQRA. The FEIS and Findings Statement make clear that they apply to the entire Project. Thus, any caps that would apply under 6NYCRR §617.13 should be calculated on the basis of the entire Project. As such, none of the thresholds in DEC’s regulations have been exceeded. Accordingly, the Planning Board recommends that this portion of the Applicant’s appeal be denied.

WHEREAS, Greenbush Associates (the “Applicant”) has appealed the Town of East Greenbush’s determination of Generic Environmental Impact Statement (“GEIS”) mitigation fees to be imposed in connection with the Applicant’s East Greenbush Technology Park expansion project; and

WHEREAS, the local law authorizing such mitigation fees states that the Planning Board shall receive and review any such appeal and make a recommendation to the Town Supervisor and Town Board, which shall make a determination of such appeal.

Now, therefore, be it

RESOLVED, as follows:

MOTION: A motion was made by Chairman Mastin as follows: **The Planning Board hereby adopts the recommendation in the form annexed hereto, and authorizes the transmittal of such recommendation to the Town Supervisor and Town Board.**

Seconded by Ralph Viola & roll called as follows:

**M. Mastin-YES; M. Bottillo -YES; J. Moore-YES; R. Viola-YES; N. Kupiec-YES;
K. Bergmann-YES.**

MOTION CARRIED BY A 6-0 VOTE

**DEER POND-ELLIOT ROAD-MAJOR 62-LOT SUBDIVISION-REQUEST FOR EXTENSION
(14-08)**

Chairman Mastin stated that the applicant had as part of their preliminary plat & preconstruction approval 180 days to get their infrastructure in place. They can ask for up to two 90 day extension for this. Rejean DeVaux from Boswell Engineering stated that the delay has been due in part to issues with the Corliss Pump Station, NYS DEC requires a flow report and until the issues are resolved they cannot put in the infrastructure. Chairman Mastin stated that the pumps are 30 years old. Chairman Mastin asked if anyone had an issue granting an extension. No one had an issue.

MOTION: A motion was made by Chairman Mastin as follows: Whereas the Town of East Greenbush Planning Board granted conditional preliminary plat & preconstruction approval of the above mentioned subdivision on April 11, 2018;

And whereas the preliminary plat approval dated April 11, 2018, required the applicant to satisfy several conditions within 180 calendar days of the resolution;

And whereas in accordance with Section 5 of the Town's Subdivision Regulations, the final plat and other supplementary documents shall be filed with the Clerk of the Planning Board, within 180 days after preliminary plat approval;

And whereas the applicant has requested an extension to satisfy the conditions contained within the preliminary plat approval and submit the final plat and supplementary documents;

Be it resolved that the Town of East Greenbush Planning Board hereby grants an extension to the applicant to satisfy the conditions within the preliminary plat approval and file the final plat and supplementary documents in accordance with Section 5 of the Town's Subdivision Regulations until January 7, 2019.

Seconded by Mike Bottillo & roll called as follows:

**M. Mastin-YES; M. Bottillo-YES; J. Moore-YES; R. Viola-YES; N. Kupiec-YES;
K. Bergmann-YES.**

MOTION CARRIED BY A 6-0 VOTE

**REGENERON-DISCOVERY DRIVE-SITE PLAN MOD.-BLDG. 95-EXPANSION OF PKG
(18-23)**

Steve Hart spoke and addressed Joel Bianchi's comments on the site plan, the biggest one being the reason for the lack of landscaping up against the building. Steve Hart stated that Regeneron usually likes to have landscaping up against the building but due to the pest control & infestation. They have an underdrain under the stone garden to keep water away from the building.

Ralph Viola asked what was the comment about the inspection being moved to one side. Steve Hart stated the inspection ports were on the center catch basins but they have now both been moved to the outside. Chairman Mastin asked Adam if all of MJ's comments have been addressed. Adam stated that is correct.

MOTION: A motion was made by Chairman Mastin as follows: **The Town Planning Board has taken a “hard look” at the potential environmental impacts of this project by carefully considering and reviewing the Environmental Assessment Form, considering all the Applicant’s proposed mitigation measures as they relate to environmental issues and more particularly to traffic, fire and rescue and MS-4 storm water management and hereby issues a Negative Declaration under SEQRA.**

Seconded by Nancy Kupiec & roll called as follows:

M. Mastin-YES; M. Bottillo-YES; J. Moore-YES; R. Viola-YES; N. Kupiec-YES;
K. Bergmann-YES.

MOTION CARRIED BY A 6-0 VOTE

MOTION: A motion was made by Chairman Mastin as follows: **The Town of East Greenbush Planning Board hereby grants conditional approval of the Site Plan Modification as depicted on the plans prepared by Hart Engineering and dated August 15, 2018 & last revised on October 3, 2018 subject to the following:**

- Satisfying outstanding technical details as determined by the Town Designated Engineers and Town Planning Department; and
- All remaining fees are paid to the Town.

Seconded by Mike Bottillo & roll called as follows:

M. Mastin-YES; M. Bottillo-YES; J. Moore-YES; R. Viola-YES; N. Kupiec-YES;
K. Bergmann-YES.

MOTION CARRIED BY A 6-0 VOTE

NEW BUSINESS:

HOFFMAN’S-302 COLUMBIA TURNPIKE-SITE PLAN MOD.-SIGN (18-03)

Marty Andrews presented the proposal. Chairman Mastin stated that the originally approved site plan had a note on it that stated that either the applicant proposed a sign that met code or apply for a variance. They applied for the variance which was approved but the topic of an illuminated sign never came up. Chairman Mastin stated that illuminated signs are granted in certain instances. Chairman Mastin asked if there are any Hoffman signs that are not lit. Marty Andrews stated no, the company standard is a lit sign. The existing sign is 64 square feet and is lit and their new proposed sign is 32 square feet and lit. Marty Andrews stated that there are some signs on Columbia Turnpike that are lit.

•Nancy Kupiec stated if the lights are very bright on the illuminated signs and does the sign have a white background & she is also concerned because the area is mixed use. Marty Andrews stated that the current sign is LED.

•Ralph Viola stated that he counted over 10 signs that are similar to what the applicant is proposing and that 1/3 of the sign meets what their asking for

Joe Slater stated that there are a couple of areas where it doesn’t meet the criteria.

MOTION: A motion was made by Chairman Mastin as follows: **Whereas on April 25, 2018, the Planning Board issued a Negative Declaration pursuant to the State Environmental Quality Review Act that encompassed the activities proposed in the site plan modification, the Town of East Greenbush Planning Board hereby grants conditional approval of the Minor Site Plan Modification as depicted on the sign details prepared by The Sign Studio, subject to the following:**

- **Satisfying outstanding technical details as determined by the Town Designated Engineers and Town Planning Department; and**
- **All remaining fees are paid to the Town.**
- **Applicant is complaint with the remaining provisions of Section 3.3.9 of the Town Zoning Code.**

Seconded by Ralph Viola & roll called as follows:

M. Mastin-YES; M. Bottillo-YES; J. Moore-YES; R. Viola-YES; N. Kupiec-YES; K. Bergmann-YES.

MOTION CARRIED BY A 6-0 VOTE

HARRINGTON-SHERWOOD AVE./CLINTON ST.-MINOR 3-LOT SUBDIVISION (18-24)

Kevin Harrington stated that there are 7/10 of an acre between Clinton Street and Sherwood Avenue and wants to divide it into three equal parts. One on Sherwood Avenue & 2 on Clinton Street, each would consist of 100' x 100' lots. One lot has an existing house on it and the other two are vacant lots that the applicant wants to sell as building lots. Chairman Mastin asked if an initial review meeting was required and that the plan needs to show the existing line & setback lines for the proposed two building lots. Nancy Kupiec stated that the remaining lot also needs to be complaint.

It was noted that the setback on one of the lot lines was not compliant as there is a shed that abutted the proposed lot line. The applicant was informed to obtain further information on the shed (specifically size to determine if it was under 10x12 ft.) and that he could obtain an area variance from the ZBA, or move the proposed lot line to make it compliant with the setback.

MOTION: A motion was made by Chairman Mastin as follows: **The Town of East Greenbush Planning Board hereby accepts the sketch plat dated, July 23, 2018, prepared by Cornerstone Surveying & Mapping for the proposed 2-lot minor subdivision.**

Seconded by Kurt Bergmann & roll called as follows:

M. Mastin-YES; M. Bottillo-YES; J. Moore-YES; R. Viola-YES; N. Kupiec-YES; K. Bergmann-YES.

MOTION CARRIED BY A 6-0 VOTE

MOTION: A motion was made by Chairman Mastin as follows: **The Planning Board has determined the project an Unlisted Action and hereby declares itself Lead Agency in connection with a coordinated review under SEQRA.**

Seconded by Mike Bottillo & roll called as follows:

**M. Mastin-YES; M. Bottillo-YES; J. Moore-YES; R. Viola-YES; N. Kupiec-YES;
K. Bergmann-YES.**

MOTION CARRIED BY A 6-0 VOTE

**EG SOCCER-100 PHILLIPS ROAD-SITE PLAN MODIFICATION-NEW FIELD
(18-25)**

Steve Hart stated that there are 4 existing soccer fields and two small parking lots on the site. East Greenbush Soccer is looking to construct a new soccer field. This field consists of approximately 2 – 2 ½ acres. Steve Hart stated that he is working on the SWPPP. Kurt Bergmann asked how this would impact their parking. Steve Hart stated he doesn't think it will. Chairman Mastin recalled that at the Project Review team meeting the person who came in from East Greenbush soccer stated that they had just had a big tournament and parking wasn't an issue.

MOTION: A motion was made by Chairman Mastin as follows: **The Town of East Greenbush Planning Board hereby accepts the sketch plan dated October 2018 by Hart Engineering for the proposed site plan modification.**

Seconded by Nancy Kupiec & roll called as follows:

**M. Mastin-YES; M. Bottillo-YES; J. Moore-YES; R. Viola-YES; N. Kupiec-YES;
K. Bergmann-YES.**

MOTION CARRIED BY A 6-0 VOTE

MOTION: A motion was made by Chairman Mastin as follows: **The Planning Board has determined the project an Unlisted Action and hereby declares itself Lead Agency in connection with a coordinated review under SEQRA.**

Seconded by Kurt Bergmann & roll called as follows:

**M. Mastin-YES; M. Bottillo-YES; J. Moore-YES; R. Viola-YES; N. Kupiec-YES;
K. Bergmann-YES.**

MOTION CARRIED BY A 6-0 VOTE

**100 COLUMBIA TURNPIKE LLC.-510 COLUMBIA TURNPIKE-LOT LINE ADJ.
(18-26)**

Steve Hart stated that he is working with Tyler Culberson on this project. Steve Hart stated that there are four existing parcels, the one at 510 Columbia Turnpike has a house on it and there is a parcel on Arizona Avenue that has a house on it. Each lot has its own tax map number, the proposal is to take all four parcels and create four different shaped parcels. Each lot would have 75' of frontage and 7,500 square feet.

MOTION: A motion was made by Chairman Mastin as follows: **The Planning Board has determined the project an Unlisted Action and hereby declares itself Lead Agency in connection with a coordinated review under SEQRA.**

Seconded by Kurt Bergmann & roll called as follows:

M. Mastin-YES; M. Bottillo-YES; J. Moore-YES; R. Viola-YES; N. Kupiec-YES; K. Bergmann-YES.

MOTION CARRIED BY A 6-0 VOTE

UPDATES:

GLAZ/AMEDORE- NEWKIRK ROAD-MAJOR SITE PLAN-SENIOR APTS. (18-02)

John Bossolini & Brett Steenburgh were both present for the project which has been named "Heritage Hills". Brett Steenburgh passed out a packet to the Board members which consisted of a landscape plan, erosion & sediment plan, the landscape plans shows a landscape boulder every 10' & a sign every 3' that says no snow. Brett Steenburgh stated that the wetland will be higher than the road. The entrance roadway has been pulled 25' away from the wetland area and they are moving the garden area to the other side of the entrance road.

●Nancy Kupiec stated that the improvements they've made help a lot but wonders if it's too tight for emergency vehicles. Brett stated that is doesn't.

●Kurt Bergmann asked the swale is 8' below the wetlands, won't it drain the wetlands. Brett stated that no it shouldn't. Chairman Mastin asked if there was anything else. There wasn't.

REFERRALS-REPORTS & RECOMMENDATIONS:

ZBA Appeal #2018-13-Planet Fitness(Bank of America Kiosk) -609 Columbia Turnpike- Area Variance- Interpretation-Applicant wants to determine if the proposed standalone drive-up ATM kiosk can be defined as a principle bank use on the property and can be considered a permitted use within the B-1 Zoning District-report by Jim Moore.

After some discussion, the following motion was made:

MOTION: A motion was made by Chairman Mastin as follows: **The Town of East Greenbush Planning Board hereby accepts Jim Moore's report. *See attached report for further detail.**

Seconded by Jim Moore & roll called as follows:

M. Mastin-YES; M. Bottillo-YES; J. Moore-YES; R. Viola-YES; N. Kupiec-YES; K. Bergmann-YES.

MOTION CARRIED BY A 6-0 VOTE

NEW ZBA REFERRALS:

NONE

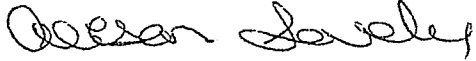
REVIEW AND APPROVAL OF MEETING MINUTES:

Approval of September 26, 2018 meeting minutes postponed.

ADJOURNMENT:

There being no further business before the Board, the meeting was adjourned by Chairman Mastin. Seconded by Mike Bottillo. Carried by a 6-0 vote.

Respectfully Submitted

A handwritten signature in cursive script, appearing to read "Alison Lovely".

Alison Lovely, Planning Secretary

Date: October 10, 2018

Applicant: 609 Columbia Turnpike Associates, LLC

Proposal: Bank of America Proposed Drive-Thru Kiosk

Recommended Interpretation: The proposed freestanding drive-up ATM kiosk does not constitute a 'principal bank use.' The following reasons are provided in support of this conclusion. First, in reference to the definition of '*Use, Principal,*' sites are not normally developed for a freestanding drive-thru ATM. To the knowledge of the planning board, no such sites exist in the Town. In reference to the definition of an '*Accessory Building or Structure,*' the purpose of the kiosk is not for human habitation. As result, it is the interpretation of the Planning Board that the drive-thru ATM is an accessory use and accessory building/structure.

For reference, relevant definitions taken from the Town Comprehensive Zoning Law:

Accessory Building or Structure: *A structure, the use of which is customarily incidental and subordinate to that of the principal building and which is not attached thereto, and is located on the same lot or premises. Accessory structures are not for the purpose of human habitation and include such buildings as garage, garden or tool sheds, barns, and playhouses and such elements as dish antennae and solar collectors.*

Accessory Use: *A use or occupancy which is customarily incidental and subordinate to the principal use, occupancy or tenancy, and located on the same lot or premises, whether such accessory use is conducted in a principal or accessory building.*

Use, Principal: *The main or primary purpose or purposes for which land and/or structure(s) is designed, arranged, or intended or for which such land or structure(s) may be occupied or maintained under this Local Law.*

End of Interpretation