

The Town of Cicero Planning Board held a meeting on **Wednesday, May 6, 2009 at 7:00 p.m.**, in the Town Hall at 8236 South Main Street, Cicero, New York 13039.

Agenda:

- Approval of the Planning Board's minutes from April 20, 2009 (**approved**)
- Site Plan, Carlene's Custom Framing, 5774 South Bay Road, Proposed home occupancy, Carlene Maloney (**approved**)
- Site Plan, Empire Management Co., 5771 Miller Road, David Muraco, Proposed addition, etc. (**to return**)
- Site Plan, Germana Property Group, 6194 Route 31, Proposed Bank (**to return**)
- Discussion, South Bay Fire Department Site Plan
- Discussion, Brewerton design standards update

BOARD MEMBERS PRESENT: Patrick Leone (Chairman), Richard Cushman, William Purdy, Sharon May, Jason Mott and Robert Smith

BOARD MEMBERS ABSENT: Christopher Rowe and Scott Harris (Ad Hoc)

OTHERS PRESENT: Wayne Dean, Director of Planning & Development, Heather Cole, Esquire, Wladis Law Firm, Mark Parrish, P.E., O'Brien & Gere and Tonia Mosley, Clerk

The meeting was opened with the Pledge of Allegiance.

Mr. Leone noted the locations of the three fire exits and that there were no formal public hearings tonight. The Board acknowledged the importance of public input and encouraged those in the audience to speak to any of the formal agenda items.

**APPROVAL OF THE PLANNING BOARD MINUTES
FROM APRIL 20, 2009**

Ms. Cole gave some grammatical changes to the clerk. **Mr. Smith made a motion** to approve the Planning Board minutes from April 20, 2009. **Mr. Mott seconded the motion.** The motion was **approved** with the following vote:

Mr. Cushman:	Yes
Mr. Purdy:	Yes
Mrs. May:	Yes
Mr. Mott:	Yes
Mr. Smith:	Yes

Mr. Leone

Yes

**SITE PLAN, CARLENE'S CUSTOM FRAMING
5774 SOUTH BAY ROAD, PROPOSED HOME OCCUPANCY
CARLENE MALONEY**

Representative: Carlene Maloney

Mr. Leone: I believe you were going to update your plan? At our last meeting we suggested you might want to hire a professional to take care of your site plan, someone who knows all of the details that need to be included. We still don't know what you have here.

Mr. Dean: We have the survey that you have seen. It shows three parking spaces in the back.

Ms. Maloney noted that the entrance to the frame shop would be in the front of the building.

Mr. Leone: I believe for a home occupation the sign should be no larger than 1 x 2. The sign can only be displayed in the window. Your sign is 4 x 8. The DOT had an issue with people and trucks being able to turn around. They don't want vehicles backing out into South Bay Road.

Ms. Maloney: No, there is no way they would be backing out. UPS stops at the top of the driveway. He does not ever pull in. There is plenty of room for him to get off the road. Between the driveway and the white line there is a good 6' there.

Mr. Dean added it is a wide shoulder.

Mr. Leone asked for the latitude for signs with in home occupations.

Ms. Cole suggested going within the same parameters the Board has given with regular business signs.

Mr. Leone: So we could go to 4 square feet, a 2' x 2' sign.

Ms. Cole: Unless you think that is entirely unreasonable and see the need to give her a little bit more. Working within the precedent you have set with other sites is probably the best thing to do.

Mrs. May noted the wooden posts being placed on the property. Is that a part of your landscaping?

Ms. Maloney stated that she was putting up a picket fence that would go back approximately 24 feet and would be 4 feet high.

Mr. Leone: In the past we have always asked where in the structure the operation would take place, the portion of the residence used for that purpose. We do not have those details on this plan. How much of the structure does the frame shop take up?

Mr. Cushman noted the diagram says that the front room is only used and the front door. Where are the measurements for that room? There are no measurements for the driveway.

Mr. Leone: The issue is those details are hard to sort out from a survey that is not a true site plan, but we will try to move forward. There is a 22' driveway. Is that acceptable to the DOT?

Mr. Dean: The DOT addressed the driveway's site distance in their letter. I don't know if they addressed the width of the driveway.

Ms. Maloney: When I went to the surveyor it needed to be at least 21' wide.

Mr. Leone: He is treating it like a commercial driveway. I want to make sure that we have the previous letter sent by the DOT for the record. The DOT previously commented on doing another business there, a proposed mulch business. The Planning Board felt that use was too intense for the location and denied it but the DOT accepted a commercial driveway there. That letter was dated December 28, 2004.

The current plan went to County Planning on April 21, 2009. They weighed in on the drainage issue. I see no comment from the County DOT. Will you be paving the driveway?

Ms. Maloney: Yes.

Mr. Leone asked for the size of the front room.

Ms. Maloney responded 16 x 20.

Mr. Dean commented about the proposed sign. Knowing where that is located with the traffic on the road and how far the house sits down lower than the road, I would suggest a larger sign then suggested so that people can see the business when they go by. Someone slowing down to look for the business could create a hazard. I agree that in a track or residential area a two square foot sign is a good thing. But on a road like this I do not think that it is.

Mr. Leone: I agree except that is why there are zone change provisions. This was not put in for a zone change. With a home occupation there are a set of rules and standards that apply. I believe a reasonable suggestion is to double the size. We need to talk about whether the sign is lit or not lit.

More discussion occurred regarding signage including the size of other signs in that area and setting a possible precedent.

Mrs. May asked for the hours of operation.

Ms. Maloney responded Wednesday through Sunday from 10 until 4. I have one other suggestion that I want to address. I was okay with the home occupation for a while until I realized that my distributors would not deliver to me if I was a home occupation. I need to be Residential Commercial in order to do this business.

Mr. Leone: Then you need to get a zone change.

Ms. Maloney: That is what I thought we were talking about.

Mr. Dean: I believe that we went this way to expedite it so that Ms. Maloney could get this opened and then go for a zone change. That is my understanding of the conversation that happened two months ago.

Mr. Leone: I think the houses there are in a situation that needs to be changed. I believe we said that changing them to General Commercial made no sense. We do not want to see a Walgreens there. But, changing them to Neighborhood Commercial does make sense. I think we also said to you that it can not be just your lot. That would be spot zoning. You need to get your other neighbors on board and make the zone change accordingly. Do you remember those conversations?

Ms. Maloney: Yes I do. That is probably not a problem with three of them. One is in a nursing home somewhere and I don't know where to locate her. Her house has been empty for over a year.

Mr. Leone: I don't know how you want us to proceed at this point. As the applicant, if you are looking for a zone change, wouldn't your money be better spent on meeting that objective? We were moving along to give you a home occupation which has very specific requirements and very specific limitations. In a Neighborhood Commercial zone you can have a residential attached dwelling or non-attached dwelling---but you are allowed to live where you work. With a home occupation you are tying up a little bit of space and only have one employee. There are signage and parking restrictions.

You are going to get the legal right to have that home occupation via this Board, if the Board approves it.

Ms. Maloney: If that is one step that I need to reach my final goal, let's do it.

Ms. Cole offered a suggestion. It sounds to me like Ms. Maloney should proceed with a potential decision from this Board on the site plan. Then, if that is not sufficient for her business partners/suppliers/etc, that is something that she can take up with them. But she would at least have some sort of potential approval from the Board.

The Board agreed and continued the signage discussion.

Mr. Smith: We have had people in similar situations at other pre-agenda meetings that were advised of the same rules. I am also concerned with setting a precedent.

Mr. Leone: Wayne your point is well taken. But, we have always stuck to our guns and made signage maybe 200% bigger. If an applicant wants something bigger they could go to the ZBA for a variance. That is the normal procedure.

Ms. Cole agreed that was absolutely true. I think Wayne is suggesting that maybe there are some special circumstances here. If the Board agrees with that I suggest making it very clear that deviating from the Board's traditional standard because of special circumstances and set forth what those circumstances are, so only in a case with similar circumstances would you be setting a precedent.

Mr. Leone: In this instance in order to try and satisfy Wayne's concern with site safety, maybe we can deviate to a 3' x 3' sign.

Mr. Smith: The motion should note that we are doing that out of concern for public safety and not as an accommodation.

Mr. Leone reviewed. The front room was 16' x 20'. We would approve only one sign which could have two faces. It will not be lit. The driveway is 22' and paved. You will be required to have a turn-around point. Mark, she is not doing anything with storm water, it is certainly not going to the road.

Mr. Parrish agreed.

Mr. Smith: We don't have a site plan. The County mentioned that landscaping was a concern.

Mr. Leone: The driveway is stone now and she is paving it. She is not increasing the non-impervious area. Carlene with approval from this Board you would have the right to operate your framing business in accordance with the rules for a home occupation. If you start to grow or have other issues, for example you can not accept deliveries there, you will have to come back to the Town, and to the Town Board for a zone change. I would say that Neighborhood Commercial would be wise.

Mrs. May made a motion regarding SEQR. She read: Be it further resolved that the Planning Board of the Town of Cicero hereby determines that the proposed action will not have a significant effect on the environment and that this resolution shall constitute a negative declaration for the purposes of Article 8 of the Environmental Conservation Law of the State of New York. **Mr. Smith seconded the motion.** The motion was **approved** with the following vote:

Mr. Cushman:	Yes
Mr. Purdy:	Yes
Mrs. May:	Yes
Mr. Mott:	Yes
Mr. Smith:	Yes
Mr. Leone:	Yes

Mr. Leone made a motion to approve the site plan request for an in home occupation

specifically for a frame shop to be operated in the front room per the July 16, 2008 drawings and scratched attachment received March 10, 2009. Again the front room is 16' x 20'. The 22' driveway is to be paved and to have a turn around area within the drive to prevent backing out onto South Bay Road by customers, the home owner or delivery trucks. We are allowing an increase in the normal signage for an in home occupation to increase from 2 square feet to a 3 by 3 sign or 9 square feet in consideration of public safety. No additional signs are to be placed.

Mrs. May seconded the motion. The motion was **approved** with the following vote:

Mr. Cushman:	Yes
Mr. Purdy:	Yes
Mrs. May:	Yes
Mr. Mott:	Yes
Mr. Smith:	Yes
Mr. Leone:	Yes

SITE PLAN, SKETCH REVIEW
EMPIRE MANAGEMENT COMPANY, 5771 MILLER ROAD
PROPOSED ADDITON TO SIDEWALK AND CANOPY TO NORTH SIDE OF
BUILDING, ADDITION OF PARKING ALONG NORTH SIDE OF BUILDING AND
EXPANSION OF PARKING LOT
NAPIERALA CONSULTING/DAVID MURACO

Representatives: David Muraco
Matt Napierala, Napierala Consulting

Mr. Muraco introduced himself noting that the building was the old Brewerton Sports. We have submitted the site plan, grading and photometrics. We are here for a roof addition, an overhang and an additional 8' by 100' square feet of front porch area. We are back to the original footprint of the building. We are just adding the extended roof section and sidewalk. The building's front would face Bartel Road. We would also meet handicap requirements.

One half of the space would be for medical use, the other half would be 1 or 2 proposed spaces. The building totals 5,000 square feet.

Mr. Leone asked for the width of the drive that comes in off Miller. Is there an issue with getting fire apparatus in?

Mr. Muraco: We talked about the movements of larger vehicles including fire equipment and deliveries. The entrance matches the one across the street at the Mobil Express. We are keeping the existing drive that is already paved.

Mr. Leone: What is the code requirement for the size of the driveway?

Mr. Parrish: There is no requirement, per say. Typically it is 22'-24' wide.

The Board noted this one is larger, closer to 45 feet.

Mr. Napierala explained. The difference here is where the actual drive width is compared to the file point of the radius. When you talk about where the radius is and where curvature occurs to allow the truck movement right at the road, yes we are wider. It is about 38 feet or so from the actual curve line itself. Again this is the existing driveway and existing entry. We have taken a standard fire truck to make a movement to be able to get to the front of the building. We want to make sure the truck will not be hopping curb. A vehicle would almost have to make a 180 degree turn to get to the front of the building. In that case the trailing wheel needs more space to make that happen.

Mr. Cushman: Why can't they just go around the building? That is the way your traffic flows. Your parking spots are angled. You can't go around to the front of the building in the other direction?

Mr. Napierala: There is a potential that they can go around the other direction, yes Sir.

Mr. Dean: In all likelihood, if the Fire Department responded from the Station they would probably come up Miller Road from the south.

Mr. Napierala: We are trying to match existing conditions without causing additional costs to the owner. Removing pavement and adding landscaping is a cost item.

Mr. Muraco: I am not re-paving I am going to top it. This is not like a new excavation that we are doing to this entry way or to the back of this building. There is an additional item that we have to do in the front for grading on the right and left islands.

Mr. Leone: It is an existing condition. I don't see it a causing much of a traffic problem.

I think that it is a bit of a hardship to have to pull out 10' of driveway, if they do not have to.

Mr. Smith: When you say that it is going to be used for medical purposes, what type?

Mr. Muraco: A dentist.

Mr. Mott: One doctor?

Mr. Muraco: Right now, roughly half of the building is leased to a doctor. I think she has 4-5 employees.

Mr. Leone: How much parking is required for a 5,000 sq. ft. medical building if it was 100% occupied?

Mr. Muraco: I think that we looked up the requirements. It was 25 parking spaces, but we are providing 28. That includes handicap spacing.

Mr. Leone: Are you adding additional lighting?

Mr. Parrish: There are two types of lighting proposed. One of them is acceptable. The other is not.

Mr. Leone: I wanted to get this to a point where it could go down to the County. They need to weigh in on your plan. I want to make sure that there are no other issues relative to zoning. Does anyone have any issues with the general layout? We need signage information.

Mr. Muraco: I submitted an elevation with square footages for all of the signage. We had 80 square feet on the building and a total of 4 signs for 4 tenants. Now we are down to 3 tenants so that is down to 60 square feet. The marquee sign is 68 square feet. It is an island sign proposed at Bartel Road with landscaping. It is three feet off the ground. The building's frontage is 101+ square feet.

Mr. Leone: So, you are asking for roughly 130 square feet of sign. You will have to show us how all of the signs will be lit.

Mr. Purdy asked if the existing signage would be coming down.

Mr. Muraco responded all of it will be coming down.

Mr. Smith and Mr. Leone asked for architectural renderings.

Mr. Muraco noted it was the same as the 2006 color samples.

Mr. Leone: Is that your property? Does what I see here go into the easement or the State right-of-way? Will that be maintained?

Mr. Muraco: We currently cut the grass and the swales. We will continue to do so.

Mr. Leone: Does your driveway extend to the west property line?

Mr. Muraco: It is already there.

Mr. Leone: So there is no greenspace?

Mr. Muraco: No, I believe that is right at the Post Office's property. The dumpster will be at the southwest corner. It will be enclosed.

Mr. Leone: Mark will get back to you on some of the lighting issues. **I make a motion** that we get the site plan down to the County. **Mr. Smith seconded the motion.** The motion was **approved** with the following vote:

Mr. Cushman:	Yes
Mr. Purdy:	Yes
Mrs. May:	Yes
Mr. Mott:	Yes
Mr. Smith:	Yes
Mr. Leone:	Yes

Ms. Cole noted that this did receive a waiver from the Brewerton moratorium from the Town Board.

**SITE PLAN, GERMANIA PROPERTY GROUP
6194 ROUTE 31, PROPOSED BANK AND DRIVE-THRU WINDOW
DUNN & SGROMO ENGINEERS/CLOUGH HARBOUR ASSOCIATES**

Representatives: Brian Bouchard, CHA
Neal German, Esquire, Germania Property Group

Mr. Bouchard introduced himself.

Mr. Leone asked if there had been an engineering change.

Mr. German introduced himself. Dunn & Sgromo initially did start the project and they were working along with Pathfinder Bank. Within the last short time period the owners of the property, Germania Group, have decided that they are going to use Clough Harbour to push this through to its conclusion. That formally tells this Board that Clough Harbour will be handling the project. Germania Property Group is the applicant for the project, not Pathfinder Bank. The owner of the property is Germania. Pathfinder Bank was a potential tenant of the property.

Mr. Leone: So we are talking about a bank, not necessarily Pathfinder Bank.

Mr. German: Correct. It could easily be another bank.

Mr. Leone: That is important for the Board to understand for a number of reasons. Is the Board able to continue to rely on the traffic study submitted by Dunn & Sgromo?

Mr. German: We are looking for a bank at that site. The traffic study should still be valid.

Mr. Leone: As long as my attorney says we can rely on it. Since it was a different engineering firm that did some of the work and you have a release or a right to access I have no problem with it. I just don't know. By all means we can not do anything that makes the site drain worse.

Ms. Cole: I think that is reasonable for you to ask for just to make sure that the engineering firm that prepared the traffic study is comfortable.

More discussion occurred.

Mr. Bouchard: This is the aerial which shows the site location. This is the original site plan which shows the proposed development as a drive thru bank facility utilizing the new driveway directly across from Lakeshore Plaza. The original traffic study suggested that there would be no significant impact based upon an increase of a 3-5 second delay to the adjacent roadway. That would not directly affect the level of service on that roadway.

The current zoning is General Commercial. This use adheres to that. It is approximately 1.2 acres with a 3900 square foot building. The lot coverage would be 7.5%. We propose 23 parking spaces. These are pictures of a similar bank. The building mounted sign is 18 square feet. There is a similar one on the side of the building. The pylon shown is 49 square feet. There is an additional sign of 3 square feet for a total of 91+ square feet.

Mr. Smith: If you have a different bank going in here now, are you prepared to approve this with Pathfinder's signage? Are you prepared to live within those guidelines?

Mr. Bouchard felt they would be comfortable.

Mr. Leone noted if there was a problem they could do a site plan modification. We would be approving architectural at the same time. The building layout would be a big issue.

We had some concerns with the amount of lighting that was going under the canopy. We were told that it was required by some kind of banking law.

Mr. Bouchard: The lighting under the canopy is excessive based upon the photometrics. We can get more toward the minimum required foot-candles for under the canopy itself. There is a special guideline for within 10' of the ATM.

Mr. Smith read the lighting requirements which were sent to each Board member by Ms. Cole.

Mr. Leone asked if the applicant was aware of the fencing requirements around the storm water pond and along the back east side of the property to prevent headlight glare. We talked about board on board for the south and east sides of the property. We elected to fence the stormwater pool because of the neighbor's concerns.

Mr. Bouchard: This is the landscape plan that was prepared which shows a variety of plantings around the building and around the signage.

We received comments from Mr. Parrish prior to the meeting. Most of the comments are minimal and can be addressed in a timely fashion. However, the applicant would like to request approval of the application with conditions if necessary so that they can move forward with actually securing a tenant. It would be beneficial to the applicant to show that the plan is favorable to the Board.

Mr. Leone: We require full response back to the Board the Wednesday before the next formal meeting. I think within the transition some communication has been lost. Mr. Parrish has sent correspondences to Clough Harbour and Dunn & Sgromo looking for a response. It is not fair to Mark. He is in no way prepared to say whether or not you have addressed all of his comments.

Mr. Bouchard: We have not addressed any of the comments in his letter.

Mr. Leone: So, we are not in a position to formally approve your plan tonight. We have the County's comments and some Board comments. You need to readdress some of the issues relative to lighting, fencing and update your plans. If you can meet Mark's comments getting those back in a timely fashion with a new plan, this Board should be able to act upon your plan at the May 18th meeting.

Mr. Bouchard: The lighting is excessive under the canopy. It can definitely be brought down. We should be able to draw up another photometric plan fairly quickly to adhere more closely to the banking standards.

Mr. Leone: There are still grading and standing water issues with the site. We asked Wayne, Mark and your engineer to get out to the site and figure out how to get some of the water from these residential back yards. We do think this is a reasonable location for a bank.

More discussion occurred.

DISCUSSION: SITE PLAN, SOUTH BAY FIRE DEPARTMENT
(SEE ATTACHMENT A)

Ms. Cole: For the record I wanted to note that Board members should have received a letter from our office dated April 27, 2009 updating you with regards to the firm's relationship with the South Bay Fire Department. I will ask that the letter get entered into the minutes.

Mr. Leone: I was waiting for the next meeting with the South Bay Fire Department to respond. If it requires an additional sign-off I will look for approval from the Board. But, I acknowledge receiving the letter.

DISCUSSION: BREWERTON DESIGN STANDARDS

Mr. Smith noted the Board was going to get a copy of the Brewerton design standards as they are drawn up so far. We have applicants coming in from that area.

Ms. Cole offered to email Paul Fritz asking for updated copies for the Board.

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 8:06 P.M.

Dated: May 15, 2009

Tonia Mosley, clerk



WLADIS LAW FIRM
THE NEW STANDARD IN CLIENT SERVICE

April 27, 2009

Patrick A. Leone, Chairman
Town of Cicero Planning Board
8236 S. Main Street
PO Box 1517
Cicero, NY 13039

Re: South Bay Fire Department Site Plan Application

Dear Pat:

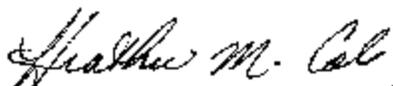
Please take this letter as an update with regard to our representation of the Town of Cicero Planning Board (the "Planning Board") in connection with the site plan application submitted by South Bay Fire Department (the "Fire Department"). By resolution on February 4, 2009, the Planning Board waived any potential conflict of interest that may have existed with our representation of the Planning Board while the Fire Department's application was pending, as the Wladis Law Firm, P.C. (the "Firm") has represented the Fire Department in the past. The Firm's representation of the Fire Department has been primarily to provide economic development and grant writing consultation services, and not with zoning or planning matters.

By this letter we disclose to the Planning Board that The Wladis Law Firm, P.C. is currently working with the Fire Department to secure funding for the project for which the Fire Department seeks approval from the Planning Board. Undersigned counsel will not be working on behalf of the Fire Department with regard to those efforts; any work done for the Fire Department will be conducted independently by separate counsel within the Firm. The Firm will utilize what is commonly referred to as a "Chinese Wall" to ensure that work done on behalf of the Planning Board and the Fire Department will be separate and distinct and conducted by separate attorneys who will not work together on either project. We believe that doing so is consistent with the newly adopted Rules for Professional Conduct for attorneys in New York State, and that undersigned counsel can continue to represent the interests of the Planning Board effectively and competently with regard to the Fire Department's site plan application. To be clear, undersigned counsel will be working on behalf of the Planning Board only with regard to the Fire Department's application.

I will ask that this letter be entered into the minutes at the next available Planning Board meeting, and would be pleased to answer any questions or address any concerns that the Planning Board members may have. Please do not hesitate to contact us should you have any questions or comments.

Respectfully,

THE WLADIS LAW FIRM, P.C.

A handwritten signature in cursive script that reads "Heather M. Cole".

Heather M. Cole
IIMC/cs

cc: Cicero Planning Board

