

Minutes of a regular meeting of the
Johnson City Planning Board held
on October 27, 2020 at 7:00pm
via Zoom Video Conference

Present: Gerald Putman, Chairman
Mary Jacyna, Vice Chairman
Greg Matyas
Matthew Cunningham
Marcia Ward

Also Present: Keegan Coughlin, Attorney for the Village
Kim Cunningham, Planning Board Clerk
Marina Lane, Town of Union Senior Planner
Trustee Martin Meaney
Trustee John Walker

Absent: None

A brief work session was held at 7:00pm. The board discussed the agenda and reviewed the applications.

First item is a public hearing for the special permit on TK Storage.

Ms. Lane acknowledged she sent everyone the report, the draft one yesterday and the final one today. David confirmed he has been trying to get information required by Code Enforcement throughout the month. It has been difficult for him to get the information required. He was able to send some more information today, but it has been dribbling in. As of Friday, it was questionable whether we were going to have enough information to close the public hearing. Ms. Lane said it is up to the Board. He has a couple of outstanding requirements which includes the sprinkler report to show that the sprinkler system either is sufficient or what upgrade would be needed for the containment of the automobiles. David asked Ms. Lane if there was any way to get the drawings of the pipes, etc. Dee sent everything she had. It will be up to David if he wants to hire a professional architect or engineer to do the field survey and get the necessary measurements that Slavik needs to make a determination on the fire suppression.

Mr. Matyas thought it was the other way around. He thought Slavik was going to go to the engineer; the engineer wanted as-built drawings of the system so they could determine if it was up to code.

David Planavsky discussed the following:

Tom Brown services all of the mall's sprinkler systems. He wrote a letter at the beginning of the month that stated that he felt it was sufficient for this type of storage. That wasn't accepted by the Code Office. They wanted more fire load, have it more complicated with engineering drawings. It was certified and they have fire protection so it is up and running. It was just serviced two weeks ago and it is serviced every year, the sprinkler system, so there is fire protection in there.



Ms. Lane informed the Board there is fire protection, but the type of storage was not pointed out to Tom Brown, and Dee confirmed exactly what was going to be held in the building and his report did not physically point out it was appropriate for vehicles being stored in there. That's what Dee wanted.

Mr. Matyas stated that's why the engineer wanted the as-built drawings, in order to determine that.

Chairman Putman said that was correct but the as-built drawings that were in the water department were destroyed apparently by a flood and it doesn't matter in any case. The issue is that the sprinkler system has got to be acceptable to Code and that is one of the comments Code has as far as the Planning Board allowing a special permit. If the Board chose to vote on the Special Permit, there would be contingencies that would have to be satisfied before the permit is issued.

Ms. Lane confirmed Chairman Putman was correct.

Chairman Putman said so that is the issue. There is a lot of stuff that needs to be done and in the report that he has from Marina there are some things that still need to be done and it would be the Planning Board's choice, depending on what happens at the public hearing. The public hearing tonight is about the special permit. The second item is to be able to consider the special permit and if the Planning Board were to consider the special permit, they would consider the special permit with contingencies.

Ms. Lane said this is an example of where a year or two ago, Dee had brought into the code the modification that under General Commercial, Industrial and Central Business Districts, if a use was not specifically permitted, but also not specifically not permitted, it is up to the Planning Board to decide if the proposed use fits in with the surrounding area. That is another aspect of the special permit you want to think about.

Chairman Putman acknowledged.

David Planavsky stated the Slavik Company is looking for those drawings and they need pipe lengths and they are trying to find those, hopefully they exist, and then it will be a quick calculation to go into the flow charts. The way it was explained to him was that if the sprinklers were acceptable for the former use in that property, with the capability of keeping all the people safe in that Bon Ton area with all the flammable stuff, the clothes and what-not that was in there, everything will work out fine. He just needs to get that letter from them. An engineer is going to figure that out as soon as he can provide them with the correct information. It is unfortunate that the flood went and ruined the as-builts. He is having trouble getting ahold of people and there are not many people in town that do this type of work so he was hoping that Tom Brown would be able to provide more and he waited a long time for that. So now he is lucky that he found someone else that is going to be able to go and get the last pieces of the puzzle together. The sprinkler system is up and running and it is certified that it works. There is fire protection in the place currently.

Attorney Coughlin stated regarding the SEQRA determination, it is a gray area whether or not this would be a Type 2 or an Unlisted Action because it is not formally an expansion of a non-residential facility, but it is a change in the use of the non-residential facility. He thinks because it is a change in use of the non-residential facility over 80,000 square feet, that it drops the threshold from 100,000 square feet to 50% of it and we should treat it as if it is an Unlisted Action.



Ms. Lane stated that at the last meeting, the Planning Board talked about the fact that in 2019 the rule changed so that if you have a space that is either commercial or residential and you have a change of use inside, it is a Type 2 Action. There are no area restrictions, requirements, expansions; it is just if you have a structure that's residential or commercial or mixed and change the use inside, that is considered a Type 2 because it is not having any impact on the exterior. So at the last meeting, we voted on a Type 2 Action. If you feel that it is not that and you want to talk about it, we can hold a public hearing, but technically we shouldn't be holding a public hearing without having made that determination.

Attorney Coughlin said we should treat it as if it is an Unlisted Action and do it before the public hearing, and he thinks it is in the best protection for the Village to go through the eleven questions and relate it to the Unlisted Action on Part 2 of the short form. We can go through those before the public hearing.

Ms. Lane stated because it was determined a Type 2 action, we didn't require a Part 1. Because the law is if you have a change of use in an existing commercial, residential or mixed-use building, it is a Type 2 action and that was one of the new rules in 2019. Unfortunately, she doesn't have her work computer here so she can't look it up.

Attorney Coughlin agreed that is true as long as it doesn't exceed a type one threshold, but this being an 80,000 square foot building, it does. The right section is 617.5c18 and it says reuse of a residential or commercial structure or of a structure or of a structure containing mixed residential commercial uses where it is a permitted use or permitted by special use permit any action that does not meet or exceed any of the thresholds in 617.4 which then says that in a city, town or village having a population of less than 150,000 and a facility with more than 100,000 sq ft of gross floor area, but that it is an expansion of an existing non-residential facility, it is reduced by 50%.

Ms. Lane questioned what he means by an expansion a non-residential facility; nothing is being expanded and the floor area being used is 80,000 sq ft.

Attorney Coughlin responded understood, but the change in use from retail use to storage could be interpreted as an expansion of a use. Attorney Coughlin confirmed no Part 1 was filled out with the Application because it wasn't needed.

Ms. Lane acknowledged yes, we didn't require it and we did discuss it at the last meeting when we called for a public hearing. If we had decided at that point that it should be an Unlisted Action then she would have asked David to complete Part 1, but we declared it a Type 2 Action at that meeting.

Attorney Coughlin asked if we want him to run through Part 1 right now and have David sign tomorrow. The answers will be fairly easy if everybody can bear with him on this. He apologized, but stated this is one of the gray lines in the new SEQRA regulations that he thinks it would be best for all parties including the Planning Board and the applicants to discuss this so nobody in the future can come back on the Village and say this wasn't done properly.

Attorney Coughlin reviewed Part 1 of the Short Environmental Assessment Form. David is agreeable to signing Part 1. During the formal part of the meeting he will go through Part 2, which are the eleven questions the Planning Board is familiar with.



Chairman Putman stated Part 3 will be the Determination of Significance. Attorney Coughlin acknowledged and said we can make a motion on the formal part of the meeting. He again apologized, but with the new part of the SEQRA he is erring on the side of caution. Attorney Coughlin will email Part 1 to David for signature.

Chairman Putman will go over Part 3 at the meeting; it will say something like this:

TK Storage plans to open a storage facility in the former Bon Ton location at the Oakdale Mall. The interior will be renovated in an 80,000sq ft space that will be renovated. The property is zoned General Commercial and the use is permitted under a special permit. The use is consistent with the surrounding area and will not generate a significant amount of traffic. The building is connected to all utilities. There will not be any significant impact to the land or any Critical Environmental Area.

There will be no impact on the historic resources or archeological or sensitive areas.

The area is in a floodplain and appropriate control measures shall be implemented.

The proposed project will not adversely impact the use of energy, water, wastewater or utilities, natural resources, wildlife nor create a hazard to the environmental resources or human health.

After review, it was determined that the proposed usage will not have any significant negative impacts on the environment.

Bark City Doggy Daycare. Chairman Putman stated that it is a request to make the special permit permanent.

Ms. Lane stated that in submitting the application to continue the dog daycare, it has helped clear up the problem of a separate property owner who has been purposely bringing their dog in front of the Bark City Doggy Daycare to eliminate waste. So that has been tracked down and it has cured a problem.

Chicken Law.

Mr. Matyas questioned if they are talking about changing it or getting rid of it completely?

Ms. Lane said removing it.

Trustee Walker confirmed getting rid of it completely.

Ms. Lane added chickens are allowed in rural residential zoning, which Johnson City does not have.

Mr. Matyas asked if this is because there is no use to have it because zoning won't permit it?

Ms. Lane responded zoning hadn't permitted it until they passed the chicken law. They are permitted as long as you have property of a certain area. Then a couple of residents applied recently to have chickens, and the amount of negative outpouring prompted the Village Board to reconsider the chicken law.



Trustee Walker informed the Board of some history behind this. We passed this law years ago. There was a family that had an autistic child that wanted to raise chickens as a therapeutic measure for the child and we thought it was in good interest for the family to pass this law so this family could have chickens for the therapeutic nature. We didn't expect people to come through and want to raise chickens in the Village itself. So that is where the law came from.

Chairman Putman inquired as to if they can still have hogs in the Village. There was someone in the Village that had a pot-bellied pig.

Ms. Lane replied that is not something she is aware of. She asked if people have pot-bellied pigs. She would suspect they are not permitted since animal husbandry is not permitted except for in rural residential zoning, which is the substitute name for agricultural.

Mr. Matyas confirmed they are getting rid of the chicken law because they made this law to be nice guys to a person who had an autistic child and they do not want anyone else to have them. He is good with that, and doesn't want his neighbor to have them.

Chairman Putman called the meeting to order at 7:31p.m. Chairman Putman took roll call and all Planning Board members were present and he determined there was a quorum. Chairman Putman welcomed Attorney Keegan Coughlin, Trustee Meaney, Trustee Walker and Marina Lane of the Town of Union.

Chairman Putman read the Recommended Procedure and Executive Order regarding virtual meetings.

MINUTES

A motion to approve and place on file the September 17, 2020 special meeting minutes of the Johnson City Planning Board was made by Mr. Cunningham and seconded by Mr. Matyas. The motion carried with all those present voting in the affirmative.

PRIVILEGE OF THE FLOOR

Chairman Putman opened the privilege of the floor to the public and the attendees present at the Zoom meeting. There being no one who wished to speak, Chairman Putman closed the privilege of the floor.

UNFINISHED BUSINESS – None

NEW BUSINESS

601 Harry L Drive – TK Storage (Special Permit for Indoor Storage)

Public Hearing for a Special Permit for Indoor Storage

Ms. Lane reminded the Board they have to complete the SEQRA determination before opening the public hearing.

Chairman Putman stated as part of this application they have all reviewed Part 1 of the Environmental SEQRA form. This is an unlisted action. At the last meeting it was stated that it was a Type 2 Action, but it is in fact an Unlisted Action because of the size of the project. We have already gone through Part 1. Are there any questions on Part 1, the part that was filled out by the Applicant?



There were no questions from the Board.

Chairman Putman read Part 2 of the Short EAF.

There were no comments from the Board.

Chairman Putman read the proposed Part 3 of the EAF.

TK Storage plans to open a storage facility in the former Bon Ton location at the Oakdale Mall. The 80,000sq ft parcel will be renovated. The property is zoned General Commercial and the use is permitted by special permit. The use is consistent with the surrounding area and will not generate a significant amount of traffic. The building is connected to public utilities.

There will not be any significant impact to the land or any Critical Environmental Area.

There will be no impact on the historic resources or archeologically sensitive areas.

The area is in a floodplain and appropriate control measures shall be implemented.

The proposed project will not adversely impact the use of energy, water, wastewater or utilities, natural resources, wildlife nor create a hazard to the environmental resources or human health.

After review, it was determined that the proposed storage use will not have any significant adverse impacts on the environment.

Chairman Putman asked if there were any questions on Part 3.

The Board did not have any questions or comments on Part 3.

It would be appropriate that a motion be made to declare a negative declaration and that the proposed action will not result in any significant adverse environmental impacts.

A motion to declare a negative declaration and that the proposed action will not result in any significant adverse environmental impacts was made by Mr. Matyas and seconded by Mr. Cunningham.

Motion Carried - Vote:

Yes – 5 (Matyas, Jacyna, Cunningham, Ward, Putman) **No** – 0 **Absent** – 0

Chairman Putman opened the public hearing and asked that anyone who wished to speak announce their name and their comments.

Courtney Rozen, General Manager of the Oakdale Mall, David Planavsky and Jason Duda appeared on behalf of the applicant.

Mr. Duda said it seems pretty straight forward and asked for any questions.



Chairman Putman questioned the layout, the pink crosshatches that are on the drawing; are they to scale? Are you actually going to put that many vehicles in there?

Mr. Planavsky replied absolutely not. Everything will be well spaced apart. The aisles will be free in the middle and it will be like a parking lot setting indoors. There is a lot of space between vehicles. They were just showing a general area. It is not all cars, it could be a pop-up camper, a motorcycle, a small fishing boat, potentially a jet ski. Everything is spaced apart and the blue area is unused space. It is more like 60,000 sq ft if you take out the dressing rooms, utility room, and storage rooms that probably won't be used.

Ms. Lane talked to Dee earlier after we received the floor plan and her Code team looked at it. They will have some requirements in there. She covered it in her recommended stipulations about interior safety and access for emergency responders. Dee commented and said they would have to work with David on some of those locations to make sure there is a clear path to the exits. They would want to have some reflective tape should there be a power outage and someone is in there and they can get out easily, but that is all going to be with Code Enforcement.

Mr. Cunningham questioned if he was able to rectify the ventilation system or find out anything about the ventilation? What about exhaust?

Mr. Planavsky responded he paid an engineer to calculate the ventilation system. The units there were deemed to be correct and there was enough air flow or fresh air coming in. He stamped it and said it was correct.

Mr. Matyas said didn't he say it had to be revamped? Isn't there more outside air requirements under that usage?

Mr. Planavsky replied yes. There are seven units on the roof. One or two of them would be adjusted so they would run to bring fresh air into the space. They are 30-foot high ceilings and it would blow the air into that area. That was determined by the engineer. There are some other issues they need to figure out.

Ms. Lane explained under the building code, what the use is being categorized as makes the difference on what the ventilation requirements would be. Mr. Planavsky's first engineer came to the conclusion that it was a warehouse use, but in reading through the Code, Dee thought it was different and asked David to contact the state building office. Apparently, he didn't do that because Dee finally did and they came back and said this use was classified under the building code, not the zoning code, as an enclosed parking garage and therefore, the first engineer's reports were not going to be satisfactory or sufficient for what this sustained.

Mr. Matyas added it would probably make it more of a stringent standard and they would need more outside air.

Mr. Planavsky said he knows quite a bit about this. What his engineer said was that there are a few uses for storage use for warehousing. There is an enclosed parking garage like what would be in downtown Binghamton, there is a repair shop like what would be on Reynolds Road, next there is refrigeration and air conditioning, and there are warehouses and that is everything else. There are ventilation requirements for each of them and they would be different. The ventilation requirements



for an enclosed parking garage would be more stringent. The reason being that at any given time you could have the potential of everyone getting into their vehicles and bottleneck creating a lot of CO2. That's not the situation here. This is a by appointment, one vehicle at a time, an 80,000 square foot building, a car gets parked and turned off.

Mr. Matyas inquired what it is deemed is whether its indoor parking or warehousing. Is it not going to be characterized as a warehouse?

Ms. Lane replied under the building code the building official determined it would be qualified as enclosed parking. Basically, this is what code is for. The Code Enforcement office will be the ones who will decide whether David will or will not get a building permit to install the garage door, or will not get a certificate of compliance if he does not comply. Bryant Arms, Code Specialist, Technical Support Unit of the Department of State Building Standards and Codes, came to the conclusion that the project is an enclosed parking garage. If the applicant wants to, they can appeal to the Department of State Building Standards and Codes if they believe the uniform code is imposing undue hardship on the project perhaps due to an overly broad generalization of parking garages. At the moment, Dee Golazeski as the Town of Union and Village of Johnson City Code Enforcement Officer made a determination of what this building use would be, what building code requires and they have to comply with it and at this point that is where we stand. If David wants to argue with that and come to a different conclusion through the State Appeals Act, he is welcome to do that. They tried to advise David that that is not necessarily the Planning Board's responsibility. He has to comply with the building code. If he wants to appeal what that building code standard is, he can do that.

Mr. Planavsky agreed. They are going to figure out exactly what the requirements are for the exhaust and they will figure out what type of parking garage it is and figure out the requirements for fresh air and exhaust. That will be determined by the State Code office to figure out if he needs to hire another engineer to back up his engineer, but he doesn't think that is going to be necessary. This is going to be corrected. He now has three engineers that have said this is correct. They can adjust the units to have enough fresh air come in and that exhaust is not going to apply. That is why the person from the State agreed with Dee's classification of an enclosed parking garage and they will have to meet those requirements. That's what he agreed with her on and if you are going to deem it that then those are the ventilation requirements. Mr. Planavsky agreed and then you will need to meet them. This will be figured out. The engineer has already placed an email with that person from the State and he said he will review it in the next day or two and he will make a recommendation. It is left to the local code officer to deem the usage. He can go and file a grievance or an undue hardship which he will do, but that will be corrected. He will have to pay \$1,000, but that will be done because he is right. So, it will be taken care of. They can classify it as an enclosed parking garage and what type of ventilation can be determined by a professional engineer and can determine exactly how much exhaust would be required. Once that is determined he will comply with that.

Attorney Coughlin stated the big take away is that this part is going to get worked out between David, the State Code office and Dee. It is not necessarily relevant to the Planning Board's determination tonight because it is a condition of the approval.

Mr. Planavsky said it's a condition and they have to figure out exactly what the State is going to deem it as, what the exhaust requirements are and they will figure this out and comply.



Chairman Putman said our responsibility this evening is to determine whether the use warrants a special permit. The issues and all the stuff in the weeds are really not within our purview and that will be determined by those that are the experts.

Mr. Planavsky said we will leave it to the professional engineers to figure out what this is and when he writes and stamps the letter, they will figure that out.

Mrs. Jacyna questioned that they can't do business there until this is all solved.

Chairman Putman confirmed that is correct. If this board were to grant a special permit, all of the conditions of the special permit must be satisfied for them to get the certificate they will need to operate.

Mr. Planavsky asked is there any way to get a waiver to open or get a surety bond?

Chairman Putman would say probably not, because that puts the officials who are making the determination on the hook if it doesn't get done. If the Board determines to approve the special use, one of the things that can happen is that the Board can hold over the special permit until the items are satisfied and then approve the special permit. This Board has two options, to allow a special use permit with contingencies and when those contingencies are resolved you will get the permit, or the Board can hold it over until the information is completed and then make a determination. The differences will be if supposedly you get this done in the next week, if the Board were to approve the use with contingencies then you could open in a week. If the Board determined they wanted to hold over the special permit until these items were rectified, then the earliest would be the end of November.

Ms. Lane pointed out that it is riskier for David to put a lot of money into something if he doesn't know or doesn't believe this special permit is going to be approved. If you approve it, you can rest assured that Dee is not going to allow them to open particularly until all the safety measures are met and that is what is outstanding. The fire suppression system and the ventilation system.

Chairman Putman asserted that becomes a Board decision. If the Board wants to hold it over, they can and if they decide they want to do it with contingencies, they can.

Chairman Putman closed the public hearing.

Chairman Putman said, back to the special permit review. We heard from Jason and David and they are here to answer any questions you may have.

Chairman Putman read the Special Permit Review, Environmental Review, Department Head Comments and Staff Recommendations.

Special Permit Review:

David Planavsky submitted an application for the indoor storage of a variety of motorized vehicles, including automobiles, motorcycles, and boats, and potentially for the storage of miscellaneous palletized materials, such as contractors' materials, within the former Bon Ton at the Oakdale Mall, 601



Harry L Drive. The retail space is 80,000 square-feet, single-story, and located centrally within the Oakdale Mall, facing Reynolds Road.

In order to determine the section of the Building Code with which the use must comply, Daria Golazeski, Code Enforcement and Building Official, defined the use as an enclosed public parking garage, and Bryant Arms, Code Specialist of the Technical Support Unit, NYS Department of State Division of Building Standards and Codes has confirmed this interpretation. As such, the ventilation system will have to meet the ventilation system requirements for enclosed parking garages, found in Section 404.1. Mechanical ventilation systems for enclosed parking garages shall operate continuously or shall be automatically operated by means of carbon monoxide detectors applied in conjunction with nitrogen dioxide detectors.

The property is zoned General Commercial, and indoor storage is neither permitted by right or prohibited. Mr. Planavsky has applied for a special use permit per Section 300-21.3D, which the Planning Board may issue “upon finding by the Planning Board that such use is of the same general character as those permitted and will not be detrimental to the other uses within the district or to the adjoining land uses.”

The former retail space is being evaluated for fire safety, ventilation safety, and load-bearing strength of the floors. Mr. Planavsky plans to replace one set of customer doors with a garage door to allow customers to drive or tow the vehicles or materials into the facility.

Environmental Review and Department Head Comments:

The applicant's proposal is an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA), and a negative declaration was approved by this Board. The project was subject to a 239-Review as it is within 500 feet of State Route 201. The following comments are from Department Heads and the 239-Review.

- **Code Enforcement:**
 - Code Enforcement requires sufficient information to determine if the sprinkler system is adequate for the new use.
 - The carpeting must be removed from area of vehicle storage.
 - There needs to be a good floor plan showing storage areas and number of vehicles, etc., and area for goods. That is needed to determine fuel load.
 - Chapter 4 of the 2020 Mechanical Code of NYS details ventilation system requirements. The use would be classified as an S-2-enclosed parking garage and specific ventilation is required. We will need to see a report and/or plans for modifications to confirm that these codes are met along with proper fire separation at the entrance to the interior of the Mall.
 - All signage shall be reviewed by Code Enforcement. Signs that blink, rotate, or move are not permitted. All signage shall conform to Code.
- **Fire Dept.:** Require a spill containment plan and materials to implement such plan or contain spill. No storage of propane tanks. The Fire Marshal shall inspect the facility prior to the issuance of a Certificate of Compliance. Call the Fire Department to arrange the inspection at (607) 729-0428.
- **Police Dept.:** No compelling interest.



- **Public Works & Water:** If this is approved the water service will require a backflow device. Since this could store items with automotive fluids, a Watts LF-009 would be acceptable. The store service line is less than 2-inches, therefore the applicant can use the pre-approved forms (in quadruplicate) if they submit the application prior to October 30, 2020. If the backflow package is submitted after that date, the application will be required to be completed by a NYS licensed engineer. The backflow prevention device shall be inspected and tested after installation and then tested annually by a certified backflow prevention device tester, and a report submitted to the Water Department (607-797-2523).
- **NYS DOT:** No comments.
- **B. C. Planning:** found no significant countywide or inter-community impacts associated with the project. Recommend that if hazardous chemicals or materials are stored onsite, or if there is any onsite vehicle repair, the applicant should adhere to appropriate storage and safety requirements.
- **B.C. Health Dept.:** There should be a spill control plan in case there are motor vehicle fluid leaks.
- **BMTS:** No comments.
- **B.C. Dept. Public Works:** No comments.

Staff Recommendation:

The Planning Department recommends approval of the special permit for Indoor Storage with the requirements from Code Enforcement, the Fire Department, the Broome County Health Department, and the following stipulations:

1. Werts Consulting, LLC determined that the concrete slab floor is capable of supporting passenger motor vehicles. The existing slab can support heavier vehicles that have an axel load of 8,000 pounds and a tire with typical/standard or larger contact area. However, based on joint factor, assumed subgrade modulus and other criteria in concrete slab design, the existing concrete floor slab CAN NOT accommodate vehicles that exceed an 8,000-pound vehicle axel weight. If heavier vehicles and trailers are to be stored on the slab, or if large storage racking systems (smaller and heavier point loads) are to be used in the space, then slab strengthening or area specific modifications will be required.
2. The repair and/or sale of vehicles shall not be conducted in the storage facility.
3. All vehicle batteries shall be disconnected once moved into the facility except where the fire code official requires that the batteries remain connected to maintain safety features.
4. Fuel in fuel tanks shall not exceed one-quarter tank or 5 gallons, whichever is least.
5. No hazardous or flammable palletized materials shall be stored in the facility.
6. The spill plan and associated materials shall be visibly stored and identified for the rapid response to any spills.
7. Adequate staff shall be present to guide vehicles into and out of the facility and the indicated parking spaces.
8. Traffic circulation and traffic control arrangements shall ensure safe passage for emergency responders, motor vehicles and pedestrians within, and when entering or leaving, the facility.



9. Per Chapter 300-66.11. Transferability of Special Permits

1. A special permit is not transferable except upon approval by resolution of the issuing board.
 2. A special permit shall authorize only one special use and shall expire if the special use ceases for more than three months for any reason.
10. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of a Building Permit. The applicant shall agree to follow stipulations of approval in strict accordance with the special use permit approved by the Planning Board. Changes to the use following approval may require a new special permit or site plan review, depending on the change.

Chairman Putman confirmed David and Jason received a copy of the recommendations.

Chairman Putman asked if there are any other comments or questions from the Board.

Chairman Putman questioned whether there is going to be a door that goes from this into the Mall. There is no door that accesses the mall from this space?

Mr. Planavsky answered no there is a two-hour fire wall so fire wouldn't come through the glass doors.

Mr. Duda added they had an engineer submit plans for the two-hour fire wall and a contractor will be installing it as well.

Ms. Ward asked how many emergency exits are there? Are they directed to the outside?

Mr. Duda replied there is a total of eight exits. Yes, directly to the outside.

Mr. Planavsky said there is no public access, this is all by appointment. It will just be himself and a single customer in the building, no one else.

Ms. Ward is concerned with no matter how many people are in there, if something happens, there are various ways to get out.

Mr. Duda acknowledged there are a lot of ways to get out.

Ms. Lane advised the Fire Marshal will be inspecting. You won't get a Certificate of Compliance until the Fire Marshal and possibly the Fire Chief in this situation have been satisfied.

Ms. Lane wanted to make another point since Courtney Rozen did not speak up. She is the general manager of the Mall. When they were speaking last week, she commented about finding another person or another business to use this space. It is highly unlikely they will get more retail in there.

Ms. Rozen said it has been vacant for close to five years now and the same with Macy's. There really is no retail at this point to take up these big boxes. They really need to think outside the box at this point and the mall will never be 100% retail anymore. It is turning into a mixed-use box and that is country-wide, not just something that is here. She thanked Ms. Lane.



A motion to approve the Special Use Permit for indoor storage for TK Storage at 601 Harry L Drive including the department head comments and staff recommendations was made by Mr. Cunningham and seconded by Ms. Ward.

Motion Carried - Vote:

Yes – 5 (*Matyas, Jacyna, Cunningham, Ward, Putman*) **No** – 0 **Absent** – 0

22 N. Broad St – Bark City Doggy Daycare, LLC

Extend the Special Use Permit

Lindsey Sage, owner of Bark City Doggy Daycare, LLC was present.

Chairman Putman confirmed Ms. Sage was here to extend the Special Use Permit and make it permanent.

Ms. Sage agreed. She stated they were closed down for quite a few months due to COVID, but just opened back up at the end of July. They are doing well.

Chairman Putman asked how many dogs she has.

Ms. Sage responded at most twenty. It is usually more like 15.

Chairman Putman read the Determination of Use and Staff Recommendation.

Determination of Use

The Planning Board approved a dog daycare business in an existing warehouse located at 22 N. Broad Street on February 26, 2020. The dog daycare special use permit was approved for six months. Due to COVID-19 executive orders, special use permits were extended. Ms. Lindsey Sage, owner of Bark City Doggy Daycare, has requested the extension of the approval to be permanent. No specific complaints were received since the approval in February.

Staff Recommendation:

The Planning Department recommends extending the Special Use Permit for the dog daycare business with the following stipulations:

1. The dogs shall not be walked in the municipal landscaped beds adjacent to the municipal parking lot so as to not result in harm to the landscaping.
2. The kennel and its operation shall not create nuisance conditions for adjoining properties due to noise or odor in accordance with the performance standards contained in the local laws of the Town and Villages.
3. Other than during walks, all animals shall be confined to the property and housed in an enclosed structure in humane conditions (i.e., protected from weather, clean and sanitary, adequate space, nonporous surfaces, well-ventilated, etc.).



4. No animals shall be permitted on the premises for care between the hours of 8:00 p.m. and 7:00 a.m.
5. Adequate methods for sanitation and sewage disposal shall be submitted to the Planning Department. The disposal plan, at a minimum, should outline the approximate amount of sewage generated, methods to properly dispose of the sewage, and methods for sanitation for the kennel.
6. Garbage cans shall weigh no more than 50 pounds, be no larger than 35 gallons, and shall not have hinged lids. All cans intended for recycling shall be cleaned and dry before being put out for recycling. Contact the Department of Public Services at (607) 797-3031 for additional requirements including placement of cans. Trash cans shall not cause a nuisance to adjacent property owners.
7. § 208-3. A. Yards, lots, and open areas. (2) All garbage and recyclable containers shall be removed from their regular collection points within 24 hours after said garbage has been collected, and no garbage containers shall be placed upon the curb area 24 hours before the due time for the collection of the same; this duty must be taken care of by the person responsible for such containers. Other than when placed at the curb for collection in accordance with the preceding provision, all rubbish, garbage, and garbage cans and containers shall be kept reasonably out of view from the street or roadway and shall not be stored in the front yard nor on the front porch of any building or structure.
8. Before placing any signage on the property, the applicant shall apply for a sign permit from the Building Official. All temporary signs, portable signs, balloons, sidewalk and curb signs shall be reviewed and approved by the Code Enforcement Office prior to being placed on the property. Signs that blink, rotate, or move are not permitted.
- 10 The Special Permit shall expire should the property or business be sold to another entity, per § 300-66.11. Transferability:
 1. A special permit is not transferable except upon approval by resolution of the issuing board. A special permit shall authorize only one special use and shall expire if the special use ceases for more than three months for any reason.
- 11 The applicant shall be required to acknowledge all of the above conditions, in writing, prior to November 14, 2020. The applicant shall agree to follow stipulations of approval in strict accordance with the site plan approved by the Planning Board. Changes to the site plan following approval may require a minor site plan review or resubmittal to the Planning Board, depending on the degree of change per Section 300-63.2. Applicability.

Chairman Putman asked if there were any questions.

Ms. Lane inquired if anyone has had a chance to look at Lindsey's Facebook page.

Chairman Putman responded he has not but understands it is well done.

Ms. Sage said thank you, they have put a lot of time into it.



A motion to extend the Special Use Permit for Bark City Doggy Daycare, LLC, 22 N. Broad Street with the Staff Recommendations was made by Mrs. Jacyna and seconded by Mr. Cunningham.

Motion Carried - Vote:

Yes – 5 (Matyas, Jacyna, Cunningham, Ward, Putman) **No** – 0 **Absent** – 0

Chairman Putman stated Ms. Sage now has her extension of the special use permit. It will only expire if the use ceases. He wished her the best.

Domesticated Chicken Law

Advisory opinion to the Village Board regarding the change to the Zoning Code, removing the Domesticated Chicken Law

Chairman Putman confirmed the Board all received a copy of the Chicken Law. The Board is being asked for an opinion. Do we agree that this law should be repealed?

Mr. Cunningham said yes.

Mrs. Jacyna said yes.

If there are no questions, Chairman Putman asked for a motion to recommend to the Village Board that the Domesticated Chicken Law be repealed or removed.

Mr. Matyas is ok with them removing it.

Chairman Putman is ok with them removing it.

Ms. Lane believes people should be able to have them in the right situation, but she felt that it was too difficult to enforce all the rules.

Mrs. Cunningham confirmed there was a public hearing for the two chicken projects that got denied.

Attorney Coughlin acknowledged there is a public hearing to repeal the chicken law.

If there is no further discussion, a motion would be appropriate.

A motion to recommend to the Village Board that Section 300-40.10.1, the Domesticated Chicken Law be repealed was made by Mr. Cunningham and seconded by Mrs. Jacyna.

Motion Carried - Vote:

Yes – 5 (Matyas, Jacyna, Cunningham, Ward, Putman) **No** – 0 **Absent** – 0

Chairman Putman stated that will go the Village Board for their next action.



ADJOURNMENT

A motion to adjourn the Planning Board Meeting was made by Mr. Cunningham and seconded by Mrs. Jacyna. The motion passed with all those present voting in the affirmative.

The meeting was adjourned at 8:22 pm.

Respectfully submitted,

Kim Cunningham
Planning Board Clerk

