

CHILI PLANNING BOARD  
December 12, 2017

A meeting of the Chili Planning Board was held on December 12, 2017 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Michael Nyhan.

**PRESENT:** Paul Bloser, David Cross, Matt Emens, John Hellaby, John Nowicki, Ron Richmond and Chairperson Michael Nyhan.

**ALSO PRESENT:** Michael Hanscom, Town Engineering Representative; David Lindsay, Commissioner of Public Works/Superintendent of Highways; Eric Stowe, Assistant Counsel for the Town; Paul Wanzenried, Building Department Manger.

Chairperson Michael Nyhan declared this to be a legally constituted meeting of the Chili Planning Board. He explained the meeting's procedures and introduced the Board and front table. He announced the fire safety exits.

**MICHAEL NYHAN:** I will change the order of tonight's hearing. The Public Hearings will be first. The first applicant will be the application of Brookline, Rochester, New York.

**PUBLIC HEARINGS:**

1. Application of Vitaliy Basisty, 88 Brookline Lane, Rochester, New York 14616, property owner: First Niagara Realty Inc; for preliminary site plan approval for a change of use in portion of building (Building 1, Suite 5) to allow a hair and nail salon (formerly office space) at property located at 4201 Buffalo Road in N.B. zone.

Vitaliy Basisty was present to represent the application.

**MR. BASISTY:** My name is Vitaliy Basisty. I'm the property at 4201 Buffalo Road and we're looking for permission to use space at Suite Number 5 for a hair and nail salon. It was previously used as office space. It's going to stay the same. We're not doing any work. Not knocking down any walls or anything that is different. Pretty much staying the same. Just pretty straightforward.

**MICHAEL NYHAN:** Any changes to the exterior of the building?

**MR. BASISTY:** No. We would be looking for a sign to put up. That is after this stage, we'll go for obviously a permit.

**MICHAEL NYHAN:** Okay.

**RON RICHMOND:** Signage was all I had.

**PAUL WANZENRIED:** Pull a building permit.

**MICHAEL NYHAN:** Building permit. Okay.

At this time I will open the Public Hearing.

**COMMENTS OR QUESTIONS FROM THE AUDIENCE:** None.

Michael Nyhan made a motion to close the Public Hearing and John Hellaby seconded the motion. All Board members were in favor of the motion.

**MICHAEL NYHAN:** Any further discussion? Any other comments? This is an outright permitted use in an NB Zone. No other variances will be needed.

After reviewing the Environmental Assessment Form, I will make a motion.

Michael Nyhan made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be an unlisted action with no significant environmental impact, and John Hellaby seconded the motion. The Board all voted yes on the motion.

**MICHAEL NYHAN:** For conditions, I have Town Engineer and Commissioner of Public Works to be given copies of any correspondence of other approve agencies.

Applicant shall comply with all pertinent -- does not apply. Strike that one.

All previous conditions imposed by this Board still pertinent to the application remain in effect.

And building permits shall not be issued prior to the applicant complying with all conditions.

Applicant subject to all required permits, inspections, code compliance regulations.

This is also subject to the approval of the Town Fire Marshal.

Any signage change shall comply with Town Code including obtaining sign permits.

**JOHN NOWICKI:** Final site plan?

MICHAEL NYHAN: Yes. They will be looking for preliminary and final site plan on this.

With these conditions, this is for the application of Vitaliy Basisty, 88 Brookline Lane, Rochester, New York 14616, property owner: First Niagara Realty Inc; for preliminary site plan approval for a change of use in portion of building (Building 1, Suite 5) to allow a hair and nail salon (formerly office space) at property located at 4201 Buffalo Road in N.B. zone.

DECISION: Unanimously approved by a vote of 7 yes with the following conditions:

1. The Town Engineer and Commissioner of Public Works shall be given copies of any correspondence with other approving agencies.
2. All previous conditions imposed by this Board that are still pertinent to the application remain in effect.
3. Building permits shall not be issued prior to applicant complying with all conditions.
4. Application is subject to all required permits, inspections, and code compliance regulations.
5. Subject to approval by the Town Fire Marshal.
6. Any signage change shall comply with Town Code, including obtaining sign permits.

Note: Final site plan approval has been waived by the Planning Board.

2. Application of Ferrari's Pizza Bar, 3240 Chili Avenue, Suite B-18, Rochester, New York 14624, property owner: Chili Plaza Properties LLC; for preliminary site plan approval for a change of use in portion of Suite B-17 (office space) to allow a party room for Suite B-18 at property located at 3240 Chili Avenue in G.B. zone.

Steven Ohrenstein was present to represent the application.

MR. OHRENSTEIN: Steven Ohrenstein, the owner of Ferrari's Pizza Bar. We're applying for turning the space back into a party room. I just want to say, though, that the -- the space was originally part of the restaurant. My office, Stonewood Builders, is next door. I ended up taking the space and then we flip-flopped it back to the restaurant.

MICHAEL NYHAN: Now you will convert it back to restaurant space?

MR. ORHENSTEIN: Yes. It has already been completed.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

Michael Nyhan made a motion to close the Public Hearing portion of this application and John Hellaby seconded the motion. The Board was unanimously in favor of the motion.

Michael Nyhan made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be an unlisted action with no significant environmental impact, and John Hellaby seconded the motion. The Board all voted yes on the motion.

MICHAEL NYHAN: For standard conditions, I have the Town Engineer and Commissioner of Public Works be given copies of any correspondence from any other approving agency.

Preliminary -- I'm sorry, building permit shall not be issued prior to applicant complying with all conditions.

Application is subject to all required permits, inspections, code compliance regulations. And subject to the approval of the Fire Marshal.

JOHN HELLABY: Final, as well.

MICHAEL NYHAN: This is preliminary with waiver of final, as well.

Application of Ferrari's Pizza Bar, 3240 Chili Avenue, Suite B-18, Rochester, New York. 14624, property owner: Chili Plaza Properties LLC; for preliminary site plan approval for a change of use in portion of Suite B-17 (office space) to allow a party room for Suite B-18 at property located at 3240 Chili Avenue in G.B. zone.

DECISION: Unanimously approved by a vote of yes with the following conditions:

1. The Town Engineer and Commissioner of Public Works shall be given copies of any correspondence with other approving agencies.
2. Applicant shall comply with all pertinent Monroe County Development

Review Committee comments.

3. Building permits shall not be issued prior to applicant complying with all conditions.
4. Application is subject to all required permits, inspections, and code compliance regulations.
5. Subject to approval by the Town Fire Marshal.

Note: Final site plan approval has been waived by the Planning Board.

**OLD BUSINESS:**

1. Application of Taouk Holding LLC, owner; P.O. Box 52, Spencerport, New York 14559 for revised preliminary site plan approval to erect 54 townhouse units to be known as Mayflower Estates at property located at 4201R Buffalo Road in R.M. zone.

John Sciarabba was present to represent the application.

MR. SCIARABBA: Good evening, Mr. Chairman, members. My name is John Sciarabba with LandTech here on behalf of Taouk Development. We're here this evening asking for updated preliminary. We were here in June and received preliminary approval and a SEQR determination.

Since that time, this plan has gone through extensive design. It has been submitted, reviewed and approved by the Monroe County Water Authority, Monroe County Health Department, Monroe County Pure Waters.

We have also submitted an extensive SWPPP to the Town Engineer, so the Town Engineer has reviewed the updated site plan and the SWPPP. I can go over those comments, but it is down to ten comments which are minor in nature and very technical in nature.

We will -- the plan has also been reviewed by the Fire Marshal and we have worked extensively with the Department of Public Works regarding this application. The plan, as it exists today, is essentially the same as it was back in June. The same configuration.

The most significant change is the decrease in units. It was 62 units back in June and we're down to 54 units. So this is a substantial change to the plan only in number, but the geometry remains the same. Private road, townhouses for rent.

The other thing I would like to point out, the Town Engineer comments, this plan has gone to the Conservation Board and we are -- we know there are contingencies regarding the landscape design. Heinrich Fischer, a local landscape architect, has been retained to meet the conditions of the Conservation Board so we don't have any problems with that.

So that is kind of a very brief overview where we are. I will take any questions at this time.

MATT EMENS: Thanks for the update on the units and obviously it has been a few months since you have been here as you pointed out.

One of the other things I had in my notes from the last time you were here was a second means of egress. We have heard that there was some work done on that, but I don't see it in the plans. I was wondering if you could give us a history and update on --

MR. SCIARABBA: In June, we walked out with a fairly significant obstacle and we didn't have a handle on safety and how the Fire Marshal would handle that. We took direction and first meeting we had was we had the Fire Marshal review the plan. I don't know if you have the letter, but basically the Fire Marshal has reviewed the plan and is fine with the layout as is.

We also met with the HOA in a hope to find another access that would keep the public roads in a good condition. There was an original construction entrance off of Westside Drive. Westside Drive east of the existing buildings that are there, the commercial buildings, and we're hoping to do that, but that access has not been granted to us at this time. So that is where we are with that.

MATT EMENS: Where would that connect? In other words, you're not adding a new drive to the actual -- your planned development?

MR. SCIARABBA: Correct.

MATT EMENS: You're taking it out of the original?

MR. SCIARABBA: Still staying in the same location.

MATT EMENS: Getting to Westside Drive?

MR. SCIARABBA: Correct.

MATT EMENS: That's not --

MR. SCIARABBA: That's not in place at this time. It would be more a construction entrance and also we would be hoping to have it as an emergency access. If something was to happen, the Fire Department knows they can go through that. We plan to have it stoned, but that has not been granted to us yet.

MATT EMENS: Okay. That's all I have right now.

JOHN HELLABY: Lu Engineers' letter dated December 11th, I guess the only two issues that jump out here at me are items 4 and 5. Just an update where you're at and when you think those will be resolved.

MR. SCIARABBA: 4 and 5. The drainage study. The Storm Water Pollution Prevention Plans has been submitted and reviewed. It has gone through extensive review with the Town Engineer and Department of Public Works, as well.

It has also been reviewed by the New York State DEC. There is a difference of opinion. The SWPPP form and whole interaction of that is a very technical and arduous calculation. There was some give-and-take on the design aspects of that, but I can let the Town Engineer speak to that. I think we have come to a good spot with that related to those two topics and we don't see any hurdles that can't be overcome.

DAVID LINDSAY: We -- Mike (Hanscom) and myself have done an extensive review of both the SWPPP and drainage report and we're comfortable where it is now. There are some minor technical engineering related things that have to be tweaked in it, but overall, we're fine with it.

DAVID CROSS: Back in June, my biggest concern was the secondary -- means of a secondary access point, and I thought -- I thought I saw a plan where that was on it. And it looked like a temporary construction access/permanent emergency access. And I'm like, yeah, that's what I was looking for.

MR. SCIARABBA: Right.

DAVID CROSS: Now, what I'm hearing is it's not there. That is not proposed for tonight's application.

MR. SCIARABBA: Not part of the application. That was -- you know, it's one of the challenges with dealing with an HOA. There is a Board. It's been very difficult since day one with us. So I can say to you matter of factly if they give us the easement, we have no problem putting that in.

The Fire Marshal is aware of this. The Fire Marshal we kind of relied on heavily along with the Department of Public Works on this issue. But the HOA I feel doesn't want to see the completion of this project. This is the final phase of a multi-phase project that was started in the late '80s, and I think that Board -- the neighbors thought it was going to be forever wild and that is really not the case.

So we're hoping we can still work that out and -- but it's not on the table as far as final.

DAVID CROSS: Okay. My personal thought, I would like to see that advanced before we hear this application. So that's where I'm at.

MICHAEL NYHAN: Okay. Thank you.

PAUL BLOSER: That was also my concern in reviewing it, just another means of access.

MR. SCIARABBA: Yep.

PAUL BLOSER: At least it is in place. Stone, dirt, for emergencies, crash gates, whatever. Just -- I think for a project like this, it is necessary.

MR. SCIARABBA: If I could speak to that, again, so going back to the original overall preliminary, there were 57 units slated for this area. We're down to 54. So these roads within this project are all public dedicated roads and it's a little arduous for us as a private entity to -- to tell someone, "Give us an easement."

PAUL BLOSER: I understand you can't do that.

MR. SCIARABBA: We're trying to work with them. We hope they come along. All I can guarantee is if they -- we have asked them for the easement. We have showed -- obviously you're aware of the plan we produced to show what our intent was, but we can't get a Board to move as fast as we need to move.

So those are the guarantees I would like to make to you. My client is here, and he understands that, as well. So if the Town -- if the HOA gives us an easement, we'll put in the temporary haul road to relieve the construction elements of this project and we'll leave the haul road in place and sign it or indicate where it is so the Fire Department knows where it is, as well.

ERIC STOWE: John (Sciarabba), you said dedicated roads. Not on this portion of the project?

MR. SCIARABBA: No. The rest of the project is all dedicated roads. That's correct.

MICHAEL NYHAN: The Public Hearing has been closed on this project so no Public Hearing.

SEQR was also completed, if you recall, in June. We declared this an unlisted action for the 62 units that were proposed.

Basically the plan that we have is the same with the exception that there is a reduction in the overall density of this project, so there is no SEQR required at tonight's meeting either. I think the developer is certainly making every effort to make the additional road in. Perhaps once this is approved, maybe things will change with the ability to do that, but that's where we are with the history of this.

The preliminary is already approved. Tonight they came back because they reduced the density and were looking for final on this project.

Any other comments?

MATT EMENS: John (Sciarabba), if you guys are granting approval, what -- what is the timeframe on the buildout of this entire -- all 54 units?

MR. SCIARABBA: We would hopefully like to start construction early spring and I -- I think it would be a two-year effort. Mr. Taouk is not, you know, Spoletta Construction, but he has secured financing already, so this is a go project once we have it. And we believe the demand is there. I would say a two-year project.

MICHAEL NYHAN: Four conditions. Back in June, we imposed conditions. I will read those. They would still apply. We'll move those forward to this updated preliminary and

approval of final.

So from our June meeting, the standard Planning Board conditions were the applicant to comply with the landscaping plan approved by the Conservation Board.

Upon completion of the project, the applicant shall submit a Landscape Certificate of Compliance to the Building Department from a landscaping architect certifying that all approved plantings have been furnished and installed in substantial conformance with the approved landscape plan.

Approval is subject to the final approval of the Town Engineer and Commissioner of Public Works.

Town Engineer and Commissioner of Public Works shall be given copies of all correspondence from approving agencies.

The applicant shall comply with all pertinent Monroe County Development Review Comments.

Copies of all easements associated with this project shall be provided to the Assistant Town Counsel for approval and filing information; i.e., liber and page number shall be noted on the mylars.

Building permit shall not be issued prior to the applicant complying with all conditions.

Application is subject to all required permits, inspections and code compliance regulations.

Pending approval of the Zoning Board of Approvals and all required variances.

Applicant shall comply with all conditions of the Zoning Board of Appeals as applicable.

Subject to approval by the Town Fire Marshal.

In addition to those conditions, I have added a -- an additional condition. They revolve around landscaping.

Final landscape plans stamped by a licensed landscape architect shall be submitted to the Building Department prior to the signing of the mylars of the project. The developer shall submit a total cost of the project and total landscape cost to the Building Department.

All recommendations by the Conservation Board from the May 1st -- excuse me, May 1st and June 5th, 2017 Conservation Board meeting shall be considered as accepted by the Planning Board and incorporated into the final landscape plans.

Any other conditions?

JOHN HELLABY: Have the landscape drawings been approved by the Conservation Board?

MICHAEL NYHAN: I believe they continue to work with them; is that correct?

PAUL WANZENRIED: That's correct.

MICHAEL NYHAN: Which is why we put to be submitted to the Building Department prior to the final signing of the mylar.

JOHN NOWICKI: What about the other entranceway?

MICHAEL NYHAN: Well, that is not one of the conditions. They're going to continue to work with the Homeowners' Association because it sounds like it is a hold-up for them for final approval possibly.

If there aren't any other conditions, application of Taouk Holding LLC, owner; P.O. Box 52, Spencerport, New York 14559 for revised preliminary site plan approval to erect 54 townhouse units to be known as Mayflower Estates at property located at 4201R Buffalo Road in R.M. zone.

The Board voted 6 yes to 1 no (David Cross) in favor of the application.

ERIC STOWE: Was there a motion? We just didn't hear one over here. Was there a motion for the approval and a second? I just didn't hear one.

MICHAEL NYHAN: Motion to accept the application of Taouk Holding with the stated conditions.

RON RICHMOND: Second.

MICHAEL NYHAN: Thank you for catching that.

DECISION: Approved by a vote of 6 yes to 1 no (David Cross) with the following conditions:

1. Applicant to comply with the landscaping plan approved by the Conservation Board.
2. Upon completion of the project, the applicant shall submit a Landscape Certificate of Compliance to the Building Department from the Landscape Architect certifying that all approved plantings have been furnished and installed in substantial conformance with the approved landscape plan.
3. Approval is subject to final approval by the Town Engineer and Commissioner of Public Works.
4. The Town Engineer and Commissioner of Public Works shall be given copies of any correspondence with other approving agencies.
5. Applicant shall comply with all pertinent Monroe County Development Review Committee comments.

6. Copies of all easements associated with this project shall be provided to the Assistant Town Counsel for approval, and all filing information (i.e. liber and page number) shall be noted on the mylars.
7. Building permits shall not be issued prior to applicant complying with all conditions.
8. Application is subject to all required permits, inspections, and code compliance regulations.
9. Pending approval of the Zoning Board of Appeals of all required variances.
10. Applicant to comply with all conditions of the Zoning Board of Appeals as applicable.
11. Subject to approval by the Town Fire Marshal.
12. All previous conditions imposed by this Board that are still pertinent to the application remain in effect.
13. A final landscape plan stamped by a Licensed Landscape Architect shall be submitted to the Building Department prior to the signing of mylars for the project.
14. Developer shall submit a total cost of project and total landscaping cost to the Building Department.
15. All recommendations by the Conservation Board from the May 1 and June 5, 2017 Conservation Board meeting shall be considered as accepted by the Planning Board and incorporated into the final landscape plans.

Note: Final site plan approval has been waived by the Planning Board.

MICHAEL NYHAN: Last order of business, we have two meeting minutes to approve.

Michael Nyhan made a motion to approved the September 12th, 2017, Planning Board meeting minutes, and John Hellaby seconded the motion. The Board was unanimously in favor of the motion.

Michael Nyhan made a motion to approved the November 14th, 2017, Planning Board meeting minutes, and John Hellaby seconded the motion. The Board was unanimously in favor of the motion.

SUPERVISOR DUNNING: Mr. Chairman, if I may, before you conclude your Planning Board business for this meeting, I would like to address the Planning Board.

MICHAEL NYHAN: Certainly, Supervisor.

SUPERVISOR DUNNING: Back in 1976, I was a senior in high school. I joke all of the time with Mr. Nowicki that he is actually older than the dirt in the Town of Chili. I think he has been a part of turning every piece of dirt that has ever been turned here in Chili.

But back in 1976 -- and some of you have heard this before, but Mr. Nowicki, I met him for the very first time. Some of you know that Mr. Nowicki's son is married to my sister, so we have known each other for quite a long time.

Some of the first words that Mr. Nowicki shared with me when were sitting at a family gathering were, "Mr. Dunning, when you get settled down into a town and you get to where you're going to be, you make sure you get involved in that town. You make sure that you be a part of what is happening in that Town."

And well, here I am. So I credit Mr. Nowicki for those very wise words back in that day.

But for 41 years, John Nowicki has either sat on the Zoning Board of Appeals, the Town Board at one point -- of course, he was a big part of the Comprehensive Planning and -- as well as now he is finishing up his -- his time here with the Planning Board.

For those of you who may not know -- well, yeah, you all know. Mr. Nowicki has resigned his position.

And I just want to wish you well, John (Nowicki), in everything you do. I know I will see you quite often.

The experience that this Board will lose is invaluable. We could never replace the contributions, the experience that you have given to this Town, and I'm sure that the words, "10 pounds in a 5-pound bag" will resonate through this Committee for a long -- or this Board for a long time, as well. I'm sure we're going to hear the words "Ballantyne Corridor Study" once again. That will not go away.

So I want to -- on behalf of the Town, the entire Town of Chili, I would like to thank you

for the 41 years of dedicated service. Sir, you are a true public servant, and I want to thank you for your time and everything you have done for this Town in the 41 years you have been here.

I'm barely that old, so I don't remember all those things that you did, but on behalf of the Town, I would like to present you, if I may, with a plaque. It basically says, "Presented by the Chili Town Board to John Nowicki in appreciation for the 41 years of dedicated service to the Town of Chili."

JOHN NOWICKI: Oh, my God. (Applause.)

I want to thank all of you for putting up with me.

DON FASO: That's putting it mildly.

JOHN NOWICKI: We have shared a lot of history amongst all of us, and other Chairmen of the Board and members of the Board, we go back and Faso knows how far back we -- and you gentlemen over here, the side table, a lot of changes over the years.

But thank you, God bless you, and Merry Christmas and have a nice new year.

And Mr. Supervisor, thank you so much. (Applause.)

SUPERVISOR DUNNING: We do have a little cake.

MICHAEL NYHAN: We'll adjourn the meeting first.

Michael Nyhan made a motion to adjourn the meeting and Matt Emens seconded the motion. The Board was unanimously in favor of the motion.

The meeting ended at 7:32 p.m.