

**APPROVED**  
**Town of Red Hook Planning Board**  
**Meeting Minutes**  
**April 4, 2011**

**CALL TO ORDER/ DETERMINATION OF QUORUM**

The meeting was opened at 7:35 p.m., and a quorum was determined present for the conduct of business.

Members present — Chair Christine Kane, members Pat Kelly, Kris Munn, Wil LaBossier and alternate Brian Walker. Planner Michele Greig was also present. Members Charlie Laing, Sam Phelan and Sam Harkins were absent

**BUSINESS SESSION**

Christine Kane confirmed the agenda as published. The March 21, 2011 draft minutes had been circulated among the members and reviewed. Michele Greig made one revision in the Oaks at Lakes Kill section, paragraph four. Kris Munn made a motion to adopt the revised minutes. Wil LaBossier seconded the motion, and all members present voted in favor.

There was one announcement. Christine Kane said that a conference on water quality and water management was scheduled for April 16, 2011 at the Cary Institute for Ecological Studies. She said that members could call the Cary Institute for more information and to register.

**PUBLIC HEARING**

**David Bayliss (Bayliss Automotive)- 7307-7309 South Broadway – Special Permit**

David Bayliss was present with an application for a Special Permit to establish an auto repair facility at the rear of an existing auto parts store, on a ±1.376-acre parcel in the B1 Zoning District.

Christine Kane read the public hearing notice that appeared March 29, 2011 in the Kingston Daily Freeman after which Mr. Bayliss explained the project. He said that he had moved the dumpster into the fenced area rather than proposing a separate enclosure outside the fence. He also said that he had submitted the requested planter box details, solar light cut sheets and letter requesting a waiver from the landscaping requirement.

Christine Kane then opened the hearing for public comment. There was none.

Michele Greig reviewed the GreenPlan memo with the Board, suggesting two conditions for the approval resolutions. Those conditions concerned proper storage and disposal of hazardous liquids and a thirty (30) calendar day limit on the storage of cars unless repair parts were on order.

The Board then reviewed a response from the Dutchess County Department of Planning and Development, which concluded that the project was a matter of local concern.

Michele Greig then said that the landscaping requirement could be waived by the Board for the site plan portion of the project, but it could not be waived for the Special Permit. Citing section 143-91H of the zoning regulations, she said that a landscaping plan involving year around evergreen plantings must be proposed for the northern property line.

At this point, John Fragala, owner of the property and of the CarQuest business at the front of the building, joined the discussion. He said that any plan to plant evergreen trees in the 10 ft. setback area along the north side would involve tearing up the concrete and macadam that stretched in one unit from the southern boundary of his property to the northern boundary of the adjoining Louis Ruge property. He said that after incurring much expense, he had solved the stormwater drainage problems that had plagued his building for years, and he did not want to disturb the surface.

After some discussion, the Board and Mr. Bayliss agreed that, because of the inadvisability of cutting into the concrete or macadam to plant trees in this situation, installing five (5) planter boxes, each 2' wide x 8' long by 18" high and containing arbor vitae, along the northern property line near the parking area would meet the landscaping requirement. The Board reminded the applicant that the plants must remain alive even though the boxes would not be the best environment.

Asked about the height of the sign, Mr. Bayliss said that the distance from the ground to the top of the sign would be 10 feet.

The Board then completed the EAF part 2, referring to the mitigation plans for hazardous liquids and to the plans for landscaping.

The Board then reviewed a draft Negative SEQR Declaration, making revisions to reflect the proposed landscaping and deleting references to a dumpster enclosure outside the fenced area. Kris Munn made a motion to issue the revised Neg Dec. Wil LaBossier seconded the motion, and all members present voted in favor.

Since there were no comments from the public, Pat Kelly made a motion to close the public hearing. Kris Munn seconded the motion, and all members present voted in favor.

The Board then reviewed a draft resolution granting Amended Site Plan approval to the project. Conditions requiring a revision of the plan to correct the distance from the property line to the free standing sign, to locate the planter boxes on the plan and to provide details of the planting material were added. Pat Kelly made a motion to adopt the revised approval resolution. Kris Munn seconded the motion, and all members present voted in favor.

The Board then reviewed a draft resolution granting the requested Special Permit, adding the suggested conditions regarding the 30 calendar day limit on car storage, requirements for storage and disposal of bulk hazardous liquids and requirements for storage and periodic disposal of old tires. Pat Kelly made a motion to adopt the revised resolution. Wil LaBossier seconded the motion, and all members present voted in favor.

## **REGULAR SESSION – NEW BUSINESS**

### **Red Hook Automotive Supply/CarQuest – 7307 South Broadway – Amended Site Plan**

John Fragala was present with an application for Amended Site Plan approval to install a fenced storage area for trailers, on a 1.37-acre parcel in the B1 Zoning District.

Mr. Fragala said that originally he had wished to install a fenced area for the storage of open utility, snowmobile, and boat trailers which would be for sale. He said that he now wished to construct a steel storage building that he needed for his auto parts business. He said that the trailers would be stored behind the building. He said that one trailer would be displayed in the parking area. He said that the building would be white to match his existing building and that there would be a 4 ft. space between the two buildings to allow for snow removal from the roofs of the buildings. He said that there would be no windows and that the building would have aluminum siding and a slightly sloping roof.

The Board suggested that Mr. Fragala turn his building 90 degrees so that it would not extend into the sideyard setback. The members also suggested that he consult the Building Department to make sure the coverage on the property and the number of parking spaces were in compliance with zoning regulations. Wil LaBossier suggested that he repaint the lines delineating the parking spaces in front of the store. Finally, Mr. Fragala agreed to install trees or other landscaping in front of the new storage building after saying that any trees planted along Route 9 would likely be removed by Central Hudson.

The applicant was told to submit a revised site plan with the desired building location, landscaping plan and any lighting. The project was tentatively scheduled for the April 18, 2011 meeting.

## **REGULAR SESSION – OLD BUSINESS**

### **Frank Vosburgh/Kesicke Farm Cattle – Middle Rd. – Site Plan**

Frank Vosburgh was present for continued discussion of an application for Site Plan approval for a farm market 1 on a ±74.10-acre parcel in the R1.5 Zoning District.

The Board reviewed Mr. Vosburgh's newly submitted site plan, sign details and letter from AnneMarie Vosburgh giving access through her land to the proposed farm stand. Mr. Vosburgh said that the distance from the ground to the top of the proposed sign would be 8 ft. He added that the sign would be two-sided and would be made of wood. He said that the sign would be located near the entrance of the driveway, on his sister's property. He agreed to obtain a new letter from his sister giving permission for the sign as well as access.

Christine Kane said that Mr. Vosburgh would not be able to use the entire 30 ft. x 64 ft. building as a farm stand since regulations limited the size to 1,000 sq. ft. She asked him to show how the building would be divided to show what portion would be used for the farm stand.

The Board determined that the applicant would need 10 parking spaces, so he would need to add one more to his drawing. He said all the spaces would be handicapped accessible. The parking lot would be compacted gravel.

He said there would be no outside lighting or overhead doors. He said that the barn would be steel with a gambrel roof.

The Board determined the project to be a Type 2 project under SEQR. Pat Kelly made a motion to adopt a resolution confirming the determination and stating that there would be no further SEQR review. Kris Munn seconded the motion, and all members present voted in favor.

The Board noted that the setback for the farm stand building was 35 ft. from the property line in the R1.5 district and the setback for the sign was 15 ft.

The Board asked that the applicant add to the plan an additional parking space, and the location of the sign.

The Board then referred the project to the Dutchess County Department of Planning and Development under GML 239mm.

The Board then scheduled a public hearing for 7:45 p.m. April 18, 2011.

### **Arvine & Wendy Coon – 7221 Route 9 – Special Permit**

Arvine Coon was present for continued discussion of an application for a Special Permit to establish a farm market 2 on a 1.65-acre parcel in the R1.5 Zoning District.

The Board reviewed a response dated March 29, 2011 from Keane & Beane regarding the Board's question about whether an agricultural exemption from the applicant's farm on Route 199 could be extended to this parcel on Rte. 9, thus allowing the Route 9 parcel to meet the definition of a "farm parcel" and opening up the possibility of establishing the farm market. Christine Kane summarized the response saying that no, the agricultural exemption could not be extended from one parcel to another, but that if an application for the Rte. 9 parcel to be enrolled in the Certified Agricultural District was filed and was pending, the Board could review the farm market application provided that the parcel's acceptance in the Ag District was a condition of final approval.

Christine Kane said that the Keane & Beane letter also urged the Board to confirm that the project would meet the requirement of "accessory use". The Board and the applicants discussed whether growing produce in the greenhouse could be considered the main use on the parcel, making the farm market 2 an accessory use. Christine Kane and Michele Greig said that if the parcel were accepted into the Agricultural District, the main use would be "farming" and the market would be an accessory use.

Christine Kane emphasized that if the applicant moved ahead with plans for the farm market, he was doing so at his own risk. Mr. Coon said he had the permit for the greenhouse already and that the greenhouse was not in jeopardy.

Christine Kane suggested that the applicant table his application to the Planning Board until he had completed his application for enrollment in the Agricultural District. He agreed.

Mr. Coon then asked about the landscaping and garden supply retail business he hoped to establish. He said that the Zoning Enforcement Officer had suggested that he make application to the Zoning Board of Appeals for a Use Variance. Michele Greig said that having two principal uses on one parcel would be a complication to Mr. Coon's plan. Kris Munn noted that the existing use variance for an antique shop had been granted to the adjoining small lot, also owned by the applicant. Mr. Coon said that he wished to change that use variance from the antique shop use to the garden supply retail use. Michele Greig said that he could not exchange the uses allowed by the variance. The ZBA would review the application for the new retail use employing the same criteria the previous ZBA employed when it considered the application for the antique shop. Christine Kane said that the threshold for a use variance was higher than that of an area variance. She said that among other evidence, the applicant would have to prove economic hardship-- that there was no economically viable use among all those

allowed by the regulations for that parcel. Kris Munn added that the applicant would now have to show that the additional antique store use was not economically viable, as well.

The Board and the applicant then discussed the possible merger of the two small adjoining parcels. Kris Munn pointed out that the applicant might run into problems with multiple principal uses if he merged the parcels into one.

Ms. Greig said that the applicant could have a nursery if the parcel met the definition of a "farm parcel". She said that in that case, the applicant could sell the nursery products and also have the farm market. Kris Munn wondered about the applicant's hope to sell garden equipment as well as trees and shrubs.

Christine Kane summarized the discussion saying that if the applicant decided to merge the two parcels into one parcel and that parcel was accepted into the Ag. District, thereby meeting the definition of a "farm parcel", the applicant would then be able to sell nursery stock that was grown on the farm. Kris Munn asked whether landscaping supplies and equipment could also be sold. Michele Greig said she believed that the answer was yes but that additional research was needed to answer that question accurately.

Kris Munn then asked what would happen if one of the applicant's parcels was accepted into the Ag District and at a later date the applicant decided to merge the two parcels. Christine Kane said that was a question to ask the Ag District officials. She suggested that the applicant ask that question during the enrollment period and then, depending on the answer, consider making application for both parcels.

The Board tentatively scheduled the project for the April 18, 2011 agenda.

## **OTHER BUSINESS**

### **Oaks at Lakes Kill-- public comment period, SEQR**

Kris Munn wondered whether there was any opportunity for public comment during the SEQR review. Michele Greig said that public comment could only be taken if a Positive SEQR Declaration was issued. She said the Board could not arbitrarily open a public hearing while it was reviewing SEQR because once that public hearing was closed, a deadline for a vote on the application would be established. She said that the question about even taking comments from the public was problematic and probably would require a legal response.

Michele Greig said that in the Oaks at Lakes Kill case, the window for conducting relevant habitat studies was so narrow that the applicant probably wished to find out what studies would be required soon, without waiting for a possible Positive SEQR Declaration, a scoping session and other SEQR requirements. Christine Kane said that even if the studies were done very soon, a later Pos Dec was not precluded. Kris Munn said that by putting off a decision about a SEQR Declaration, the Board was putting off relevant public input.

Michele Greig said that when the Board issues a Negative SEQR Declaration, it is saying that, within a reasonable degree of certainty, there will be no significant adverse environmental impacts associated with the project. However, she went on, when it issues a Positive SEQR Declaration, it is saying that there may be such impacts.

Pat Kelly noted that the Town Board has a public comment period at the beginning of every Town Board meeting, and he wondered whether the Planning Board could do the same,

agreeing that a legal opinion on this question might be necessary. Kris Munn said he didn't believe an opinion was necessary and that if someone in the audience had something to say quickly and was polite, the Board could informally listen to them.

### **ADJOURNMENT**

Since there was no further business to come before the Board , Pat Kelly made a motion to adjourn.

Respectfully submitted,

Paula Schoonmaker

### **Attachments**

Negative SEQR Declaration issued to David Bayliss/Bayliss Automotive Repair  
Resolution granting Site Plan Approval to David Bayliss/Bayliss Automotive Repair  
Resolution granting a Special Permit to David Bayliss/Bayliss Automotive Repair

**617.7**  
**State Environmental Quality Review (SEQR)**  
**Negative Declaration**

Notice of Determination of Non-Significance

**Date of Adoption:** April 4, 2011

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Red Hook Planning Board, as Lead Agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

**Name of Action:** David Bayliss/Bayliss Automotive Special Permit

**SEQR Status:**       Type I  
                          Unlisted

**Conditioned Negative Declaration:**       YES  
                                                          NO

**Description of Action:**   The applicant proposes to establish an auto repair facility at the rear of an auto parts store in an existing building.

**Location:**   7307-7309 South Broadway, Town of Red Hook, Dutchess County NY

**Reasons Supporting This Determination:**

1. The Town of Red Hook Planning Board has given due consideration to the subject action as defined in 6 NYCRR 617.2(b) and 617.3(g).
2. After reviewing the Environmental Assessment Form (EAF) for the action dated March 2, 2011, the Planning Board has concluded that environmental effects of the proposal will not exceed any of the Criteria for Determining Significance found in 6 NYCRR 617.7(c).
3. All activities associated with the business will take place within the fenced area at the rear of the building, and required visual buffers will be provided. Plantings will be installed around the new freestanding sign along NYS Route 9 and along the north

property line. Lighting for the sign and for the facility will comply with the Town's Outside Lighting Regulations. Therefore there will be no adverse impacts on aesthetic resources.

**For Further Information:**

Contact Person: Betty Mae Van Parys, Planning Board Clerk  
Address: 7340 South Broadway  
Red Hook, NY 12571  
Telephone: 845-758-4613

**A Copy of this Notice Filed With:**

Town of Red Hook Planning Board (Lead Agency)

## **Resolution Granting Amended Site Plan Approval to Bayliss Automotive Repair**

**Name of Project:** David Bayliss Automotive Repair Amended Site Plan

**Name of Applicant:** David Bayliss

**Date:** April 4, 2011

**Whereas,** the applicant has submitted an application for Amended Site Plan Approval dated March 3, 2011 to the Town of Red Hook Planning Board to establish an Automotive Repair Facility in an existing building on a  $\pm$  1.376-acre parcel of land located at 7307-7309 South Broadway (TMP# 134889-6272-00-244321), in the Town of Red Hook, Dutchess County, New York; and

**Whereas,** the Planning Board has reviewed an Application for Amended Site Plan Approval dated March 3, 2011, a Short Environmental Assessment Form (EAF), March 2, 2011, a site layout and building elevations, both by L. De Sousa, both dated February 3, 2011 and revised March 24, 2011 for the proposed business; and

**Whereas,** the proposed action requires Amended Site Plan Approval pursuant to the Town of Red Hook Zoning Law §143-91; and

**Whereas,** the Planning Board referred the project to the Dutchess County Department of Planning and Development, which determined the project to be of local concern; and

**Whereas,** on April 4, 2011, the Planning Board conducted a public hearing on the Amended Site Plan application at which time all interested persons were given the opportunity to speak; and

**Whereas,** on April 4, 2011, in consideration of the Short EAF and the 'criteria for determining significance' set forth in 6 NYCRR Part 617.7(c) determined that the proposed action will not cause any potential significant adverse impact on the environment, and thus adopted a Negative Declaration deeming an environmental impact statement need not be prepared; and

**Whereas,** the Planning Board has reviewed the site plan application against the requirements of Article VII of the Zoning Law and has found the proposal complies with all applicable sections of the Zoning Law; and

**Whereas,** the Planning Board now wishes to grant Amended Site Plan approval to David Bayliss/Bayliss Automotive Repair.

**Now therefore be it resolved,** that the Planning Board hereby grants Amended Site Plan approval to David Bayliss/Bayliss Automotive Repair to establish an Automotive Repair Facility in an existing building, on a ± 1.376-acre parcel in accordance with the plans and specifications heretofore submitted upon the following conditions:

- A. Payment to the Town of Red Hook of any outstanding fees due and owing for the review of this application.
- B. Submission of Site Plan drawings for stamping and signing in the number and form specified under the Town's Zoning Law, including all required P.E. and L.S. stamps and signatures.
- C. Revision of Site Plan to correct distance of free-standing sign from the property line.
- D. Revision of Site Plan to locate five (5) planter boxes, each 2' wide x 8' long, along the northern property line near parking area.
- E. Submission of details of planter boxes to be placed along northern property line, each box to be 18" high and planted with arbor vitae

On a motion by Pat Kelly , seconded by Kris Munn , and a vote of 4 in favor, 0 against, and 3 absent.

Resolution adopted on April 4, 2011

Resolution Certified, Filed with the Town Clerk and Mailed to the Applicant

\_\_\_\_\_  
Paula Schoonmaker Ass't Clerk to the Board

\_\_\_\_\_  
Date

## **Resolution Granting Special Use Permit Approval to Bayliss Automotive Repair**

**Name of Project:** David Bayliss Automotive Repair Special Use Permit

**Name of Applicant:** David Bayliss

**Date:** April 4, 2011

**Whereas,** the applicant has submitted an application for Special Use Permit Approval dated March 3, 2011 to the Town of Red Hook Planning Board to establish an Automotive Repair Facility in an existing building on a ± 1.376-acre parcel of land located at 7307-7309 South Broadway (TMP# 134889-6272-00-244321), in the Town of Red Hook, Dutchess County, New York; and

**Whereas,** the Planning Board has reviewed an Application for Special Use Permit dated March 3, 2011, a Short Environmental Assessment Form (EAF), March 2, 2011, a site layout and building elevations, both by L. De Sousa, both dated February 3, 2011 and revised March 24, 2011 for the proposed business; and

**Whereas,** the proposed action requires a Special Use Permit pursuant to the Town of Red Hook Zoning Law §143-91; and

**Whereas,** the Planning Board referred the project to the Dutchess County Department of Planning and Development, which determined the project to be of local concern; and

**Whereas,** on April 4, 2011, the Planning Board conducted a public hearing on the Special Permit application at which time all interested persons were given the opportunity to speak; and

**Whereas,** on April 4, 2011, in consideration of the Short EAF and the 'criteria for determining significance' set forth in 6 NYCRR Part 617.7(c) determined that the proposed action will not cause any potential significant adverse impact on the environment, and thus adopted a Negative Declaration deeming an environmental impact statement need not be prepared; and

**Whereas,** the Planning Board deems the intended use as described within the Application for Special Use Permit, the associated Narrative, and the site plan

to satisfy both the "General Standards" for all special permit uses set forth at Zoning Law §143-51 and "Gasoline Stations and Automotive Service Facilities" as set forth at §143-91.

**Now therefore be it resolved,** that the Planning Board issues the requested Special Use Permit with the following conditions and upon compliance therewith authorizes the Building Inspector to issue a Building Permit upon the Applicant's compliance with all pertinent laws, codes, rules or regulations, including the Building Code of the State of New York, under their jurisdiction.

- A. Payment to the Town of Red Hook of any outstanding fees due and owing for the review of this application.
- B. No inoperative motor vehicle shall be kept on the premises for longer than thirty (30) calendar days except in instances where necessary repair parts have been ordered and delivery is awaited. The location of all such inoperative vehicles shall be suitably screened to obscure view from both neighboring properties and public rights-of-way.
- C. During the process of repairing automobiles, it is necessary to prevent any fluids from a vehicle from contaminating the aquifer. Bayliss Automotive shall achieve this objective by utilizing commercially available drain pans to catch antifreeze, engine oil, transmission fluid, brake fluid, axle grease power steering fluid and any other hazardous fluids as may be encountered. Each fluid then shall be stored in appropriately labeled containers and kept separate as required per the Department of Environmental Conservation. A hazardous waste management company shall be contracted to remove the bulk waste fluids. A supply of diatomaceous earth and pig mats shall be maintained for deployment in the event an accidental spill does occur in order to quickly mitigate such an event and prevent damage to the environment.
- D. Old tires shall be stored within the locked fence area and brought to a tire recycling facility from time to time as necessary.

On a motion by Pat Kelly, seconded by Wil LaBossier, and a vote of 4 in favor, 0 against, and 3 absent.

Resolution adopted on April 4, 2011

Resolution Certified, Filed with the Town Clerk and Mailed to the Applicant

\_\_\_\_\_  
Paula Schoonmaker Ass't Clerk to the Board

\_\_\_\_\_  
Date