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**PINE PLAINS PLANNING BOARD MINUTES**  
**Wednesday June 9, 2021**  
**7:30 PM**  
**Via Zoom and Uploaded to YouTube**

**IN ATTENDANCE:** Michael Stabile, Chairman  
Ethan DiMaria, Alternate  
Dick Hermans  
Jayelle Hoffman, Alternate  
Kate Osofsky  
Ken Meccariello  
Steve Patterson  
Peter Salerno  
Vikki Soracco

**ABSENT:**

**ALSO PRESENT:** Sarah Jones, Town Liaison  
Ray Jurkowski, Town Engineer  
Warren Replansky, Town Attorney  
Drew Weaver, Town ZEO  
The Chazen Companies, Durst Planners  
BJF Planning, Pine Plains Planners  
The Durst Corporation  
Jennifer Van Tuyl, Durst Attorney  
Joyce Capuano  
Chris Belardi  
David Burke, Capuano's Architect  
Carol Pacheo, with David Burke  
Dean Kent, Capuano's Engineer  
The Reynolds Asset, Stissing Farms  
John Furth, Stissing Farm's Attorney  
Jack and Irene Banning  
Banning's Attorney  
William and Patricia Hollick  
Hollick's Attorney  
Multiple members of the public to speak at the  
KTB Hearing  
David Birch

Chairman Stabile opened the meeting at 7:30 pm with a quorum present.

**The Hudson Valley Project Sketch Plan Review:** Sarah Yackel of BJF Planning said the only thing on the agenda tonight for the Durst project is to schedule a special meeting for June 23<sup>rd</sup>.

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Yackel then went over the memo she sent regarding the next steps in the process. Yackel said the planning board declared themselves lead agency on May 13<sup>th</sup>, but it does require a 30-day coordinated review process of all the involved agencies. The next step in the SEQR, after becoming lead agency, will be to make a determination of significance. During this the EAF part two and three will be discussed and a determination of which part of the projects will have significant impact. The board will most likely declare a positive declaration which will allow the applicant to prepare a full EIS.

The next part of the process will be scoping followed by the draft EIS and then followed by a final EIS.

Yackel then went over the scoping sessions to be held. The first being a virtual meeting on July 21<sup>st</sup> and the second being held in person on July 31<sup>st</sup>.

Yackel then went over what scoping is. Yackel said that the scoping process is not a public hearing but the time to hear about the relevant environmental issues and discuss alternatives. It's not for arguing a decision. Once the final scope is adopted the applicant will then write the EIS to the scope and then the planning board can compare the two and make sure everything was covered.

Replansky said the applicant has submitted a draft scope as part of their submission. Replansky said the document is pretty complete but that doesn't mean the planning board will not be adding to it. Replansky suggested the board members review this document prior to the meeting.

Stabile asked for a motion to conduct a special meeting on June 23<sup>rd</sup>, motion by Osofsky, second by Meccariello, all in favor, motion carried.

**KTB Properties, LLC Site Plan Public Hearing:** Stabile asked for a motion to open the public hearing, motion by Salerno, second by Osofsky, all in favor, motion carried.

Stabile said he would give anyone wishing to speak regarding this application three minutes to do so but reminded the public that the board will not be engaging in a dialogue.

Stabile asked the applicant to give a brief presentation to familiarize everyone with the project. Banning, the applicant,

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said they are looking for permission from the planning board to continue operations as a restaurant at this property. Banning said they first applied as a continuation of a nonconforming use, but have since found out that they cannot do this since the restaurant had not be opened in over a year. The Bannings were then told to submit a site plan. Banning said everything with the application and EIS seemed to be fine with the board but since there was an objection from a neighboring property owner the board suggested there be a public hearing.

Banning said the BOH has approved them for 23 seats, but they are trying to get 28. The septic has been checked and is fine. The Bannings have done a few minor alterations, like moving the propane tanks out of sight and painting the building, etc. Banning said they had assumed they could then open the restaurant with some outdoor seating in the back, partially to do with COVID. Banning said he thought it would be a relatively easy process, but it is ending up being a bit more complicated than they had , but are hoping for a reasonable resolution.

Stabile then asked if any members of the public would like to speak. The opposing neighbors, Bill and Patricia Hollick had their counsel, Wayne Thompson speak on their behalf. Thompson said he has submitted two letters on behalf of his clients in opposition of the project. Thompson feels this should be considered a new application since the restaurant closed down in January 2019. Thompson feels it should comply with all the town's current zoning before a special use permit is granted. Thompson said he did not see any setbacks, landscape screening, sound screening, or light screening, listed on the site plan, all of which would impact the neighbors. He feels the application is far from complete. He also accused the applicants of doing work without permits. Thompson said the lot size is far from adequate. He welcomes anyone who would like to call him and discuss this further.

John Henry Low then spoke and expressed empathy to the opposing neighbors. He also spoke of his support of the restaurant opening especially considering the jobs it would bring to the town. Low mentioned the neighbors are holding up these jobs by their opposition.

Stabile mentioned the opposing neighbors are not holding up the application - it is going through the proper procedure.

Janet Zimmerman then expressed her support of the restaurant opening.

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Nelson Zayas then spoke and expressed his support of the restaurant opening. Zayas said he has watched the last few planning board meetings and has seen the applicants asking what is needed to have their restaurant approved. Zayas says he then sees the town's counsel and planning board chairman "move the goal posts". He feels for them because he feels he experienced the same when he had his application for Willow Roots under review. Zayas says he echoes what Low said and the work that the applicants have done for the community, including their support of Willow Roots. Zayas said he if were to have a restaurant next to where he lives, he cannot think of better people to run it than Michel and Patricia (Jeans). Zayas wishes the applicants (the Bannings) could receive a clear answer of what they need to do, one time, so that they may do it and have the application approved.

Joan Redmond, an employee of Michel and Patricia, then spoke of how humbled she is by the support. She is very grateful and loyal to the Jeans. She is anxious to get back to work with the people she enjoys working with.

Darrah Cloud then spoke as the sole property owner of 2943-47 Church Street, also a restaurant with two bars, and across the street from the property in question. Cloud said she is also the person who revitalized the town's business association. Because of this she has learned a significant amount about growing a business in a small town. Every new business that opens, helps every other business stay open. Cloud fully supports the restaurant opening.

Richard Schwartz then expressed his support of the restaurant and feels the town would be going backwards if it was not allowed to open.

The applicants' counsel then spoke and said all of the issues raised by the Hollick's attorney are not intended for the planning board as this is a site plan review. The contentions that he has made are not planning board issues.

Stabile spoke of the many correspondences received regarding this application. Several from the Hollicks and their representatives and over 70 letters supporting the opening of the restaurant. Stabile said they are being entered into the public record and are available to view on the board's Dropbox account.

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Osofsky then suggested looking at the site plan again and discuss the issues brought up.

Hermans feels an obligation to deal with any exterior lighting and would like to see it laid out more specifically. He also brought up blocking visuals, such as a fence or plantings as a buffer between the Hollicks and this property.

Banning said these issues are addressed on the narrative submitted with their site plan. Banning said they will be using the existing lighting in the front. The only exterior lighting will be in the rear for the backyard. They plan on using small 7-watt bulbs strung across like Christmas tree lights. As far as a barrier, Banning said the Hollicks have already constructed a stockade fence on their property with the finished side facing them.

Banning said they would like to put a hedge in the back which would close off the area to the Stissing Center and the Catholic Church property. He would be happy to also do a fence, but it doesn't seem appropriate.

Stabile asked about the front lighting. Banning said nothing new will be added. Stabile asked about a light on the side of the building. Banning replied there is a gravel path with a small light over a side door which lights the path.

Soracco said there is a light over the front door and a few lights on the side and corner. Soracco said they will need shades on them.

Stabile asked where the garbage will be located and what type will be used. Banning replied they have spoken to Welsch, and they have agreed to do multiple pick-ups a week. It will be the same as other houses on Church Street where the cans are left out to be picked up. Stabile asked where the garbage cans will be stored. Banning replied on the east side of the building.

Stabile asked if there was a fence on the east side. Banning replied there is not. Banning said they would put one up if the neighbor wished but they have not been able to get in touch with them after trying many times and different ways.

Stabile asked about a certain line on the site plan and what it is, is it the path edge? Banning replied he believes that is correct.

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Stabile asked if there were any plantings along the west side next to the Hollicks. Banning replied no, there is the fence that the Hollicks put up. The fence is so close to the building so there would be no way to put plantings there. Banning said the intent is to turn the back into an attractive garden with trees or shrubs where the property abuts the Catholic Church property.

Stabile asked for the applicant to address the parking. Banning replied he discussed it with Weaver, ZEO, and there is no requirement for on-site parking. Banning said they are allowed to count the parking on Route 199 and the municipal lot.

Patterson asked the applicant how many seats they would like in the back. Banning replied they would like to have four tables. Patterson said the previous restaurant had tables out front and is Banning looking to have any tables out front. Banning does not think they will be doing this. They may put out some café tables for decoration, but no one would be dining in front.

Stabile said the seating currently is at 23, but Banning is hoping for 28, and does that include the outdoor seating area. Banning replied he believes it is for indoors, but he knows from experience if they use the outdoor seating then the indoor seating would be limited. Stabile asked if the tables would be 4 tops. Banning replied yes, but perhaps a table of 6 could be seated occasionally.

Patterson asked if there would be any music in the back and Banning replied no and added there would also be no smoking.

Hermans asked where on the building is the exhaust from the kitchen going. Banning replied it is on the east side facing the other property past the house structure.

Stabile asked about smoking in the back area. Banning replied no.

Patricia Hollick then spoke and said that the difference between this restaurant and every other restaurant that has been opened there in the past is that they have accessed and excavated the piece of land next to their backyard and it is very close. Hollick also said the compressor placed on the west door is also very close and they can hear it going on and off. The Hollicks also said the gravel is very loud when anyone walks or drives on it. The Hollicks said they do not have anything personal against the Jeans, but this restaurant will take away their

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privacy. The Hollicks said they had a mound that offered them some privacy and it was excavated. Bill Hollick also feels the zoning laws are not being followed.

Stabile asked if the compressor is a piece of construction equipment. The Hollicks replied that it is for a walk-in cooler. Stabile then asked where the mound was. Hollick said they moved the mound from the west side to the south side and they do not know why but then said so water would run-off to the church field and their yard. Hollick said the Stissing Center parking lot was being extended and it was prior to Banning buying the restaurant. The Hollicks said the Stissing Center said they would put up trees but have yet to do so.

Stabile asked if there were any other issues the Hollicks would like to mention and Bill Hollick asked why the zoning laws are not being followed. Patricia Hollick said they can smell smoke from their backyard. Stabile asked if she meant cooking smoke and she replied no, cigar and cigarette.

Stabile asked Banning about the compressor. Banning said he was unaware it was causing a noise problem. He is certain it can be baffled, otherwise they can move it back indoors. Banning said the mound being referred to is part of the Catholic Church property. Banning said when they were constructing the Stissing Center it was an eye sore and the Catholic Church had no problem with them moving it. Banning was unaware that the Hollicks had planted it and were using it as compost. Banning also said the church has granted them access onto their property at this time. Banning also said the Stissing Center has been speaking to the Catholic Church about if they would like trees planted there or a fence constructed. It's not a budget constraint but a phasing question. Stabile asked if this was on the site plan and Banning replied no because it is not on the restaurant's property.

Hermans asked about the back area of the restaurant being used as a driveway and is this temporary. Banning replied this has to do with the property on the other side and they have been using it for access, similar to the church property, to gain access to the backyard. Hermans asked if there was any intention for it to be a parking area and Banning replied no.

Stabile asked where the deliveries will be going. Banning replied in the front.

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Soracco said previous owners of the restaurant have also driven in the back and parked there. Soracco then praised Banning's clean-up of the restaurant, the Stissing Center area, and the abandoned buildings next to them.

Stabile asked about the staff smoking and Banning replied that it would not be permitted.

Soracco asked how far the Hollicks pool from the fence is. Bill Hollick replied about ten feet. Soracco felt a pool needs to be further from the property line, but Hollick said it predates the zoning code.

Bill Hollick again said the application is not following the zoning. Stabile replied that it is a site plan for a restaurant in the business district, which is allowed, and requires only site plan approval. Hollick said it is not a nonconforming use and Stabile replied it is a restaurant and is allowed in the business district and in the hamlet main street district. Hollick said it needs to be 20,000 sq feet.

DiMaria asked how much space is between the proposed outdoor seating area and the property line on the west side. Banning guessed about four feet and said that particular block of space is moveable to the extent, they just thought it made sense to put it where it is. DiMaria feels it would be a good idea to plant something along the fence to help buffer noise. He doesn't feel there should be fence on the east side due to emergency access being needed.

Replansky asked if a building permit has been issued for the compressor or is one required. Weaver said it was something he was not aware of and would be speaking to Banning. Weaver would like to look at it before making that determination. Replansky asked if it was stated that the compressor could be moved indoors. Banning feels it could be. Replansky asked if the board required the compressor to be moved indoors is that a viable possibility. Banning felt it was and thinks it would be more effective to baffle it.

Replansky asked about the BOH approval of the 23 seats and asked if they are trying to get approval for 28 seats. Banning said they were because that was what was previously allowed. Banning said the BOH asked them to keep accurate records regarding number of guests and water usage. They are being limited to 640 gallons of water a day. Replansky asked if there was a letter stating this. Banning said the only thing he has is a letter



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from the chief engineer to Banning's engineer informing him of that.

Replansky asked how many seats would be on the patio if they got approval for 28 seats or for the 23 seats. Banning said they are only allowed to use 23 seats at any given time. Banning said the assumption is they would limit or close the indoors if they were using the outdoors.

Replansky asked if there will be a time that the patio would be shut down in the evening. Banning replied 10pm. Banning said they have given the operating hours and sample menu to the BOH to help them determine how much business they would do a day.

Replansky asked Weaver if there were any setback requirements for the outdoor seating area. Weaver didn't feel there was a way to determine this because the setback requirements are to a structure.

Replansky asked Banning if he was amendable to reconfiguring the outdoor structure and Banning replied yes. Banning said they are amendable to anything to get the restaurant open.

Jurkowski asked for a copy of the email from the BOH engineer as he felt the planning board should have it for their records.

Jurkowski asked if Banning would be okay with capping the number of seating allowed in the back. Banning said they were assuming four tables but there may be an occasion when a bigger party would be dining out back, but they would certainly consider a cap.

Replansky asked Banning when he thinks he will receive final BOH approval. Banning believes they already have it.

Stabile asked Jurkowski if the site plan conforms to the site plan requirements with the exception of the possible lighting clarification and possible plantings. Jurkowski replied there were some items that came up during the public hearing. The first being possible seating out front. Banning said this is not anticipated.

Jurkowski said the planning board should consider having the compressor moved indoors to reduce noise.

Jurkowski said if a fence or hedge is going to be installed on the southern property line, the planning board should weigh into

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what they would like to see there. Whatever decision is made should be shown on the site plan.

Jurkowski asked that the garbage location be shown on the site plan.

Stabile asked how the patrons will get to the back yard. Banning replied along the pathway. Banning said there is also a side door patrons may utilize.

Jurkowski also mentioned providing shades on the outdoor lighting on the site plan.

Stabile asked Replansky to explain a bit about this application and how it is no longer a nonconforming use application, etc. Replansky said the expansion of the nonconforming use is a nonissue. It was the original application, and it has since been withdrawn. Now it is simply a matter of site plan approval for the restaurant. Replansky would like all the issues brought up added to the site plan for the next meeting.

Replansky said he considers the property an existing lot of record with an existing building, because of this the lot size requirements the neighbors were referring to would not apply.

Replansky said the only issues for the planning board to deal with is to approve or disapprove the site plan.

The board decided to keep the public hearing open until the June 23<sup>rd</sup> meeting.

Replansky suggested doing the part two of the EAF after the public hearing, as well as reviewing section 275-63 of the zoning code regarding decision making for site plans.

Stabile said he envisions a resolution being presented by the board with the stipulations discussed.

Hermans said he is concerned about the tables being pushed together for larger parties, say 12 people drinking and eating, it wouldn't be a quiet situation. There is a concern that it is too loud, since it is a neighborhood. Patterson said he agrees, but in that district, it is approved. Patterson said the establishment across the street has live music till 11pm and that is louder than people dining.

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Salerno said the plantings would have to go on the restaurant side of the already 8-foot fence in place and he isn't sure what that would do for noise abatement. Jurkowski said the fence itself creates a bit of reverberation in terms of overall sound. Any landscaping would assist with noise. Banning said there is no space for plantings along the fence, they were talking about the backyard. Jurkowski said he understands, he was referring to the southern property line. Stabile asked if anything would help along the fence. Banning asked about installing acoustic tiling on the fence. Jurkowski said that could have been a possibility if the finished fence was on the restaurant's side.

Meccariello said the number of people will be limited by the BOH and it will still be quieter than the restaurant across the street.

DiMaria suggested a tall and narrow hedge of some type of evergreens from the apex of the west side and down the property line.

Banning said he believed Michel and Patricia envisioned a lower planting there with herbs, etc. they would be using and perhaps junipers across the back. Banning isn't sure about plantings along the fence line and is concerned about a planting that went over the fence onto the adjoining property and creating another issue. Jurkowski said arborvitaes would stay in a conical shape and wouldn't take up a large space.

Salerno said he does not see a privacy issue on the south border because nothing is down there. Banning said it was also so people do not use it as an entrance and to protect the Catholic Church property.

The board discussed with the applicant how to change his site plan for the next meeting.

Stabile asked for a motion to hold open the public hearing until June 23<sup>rd</sup> at 7:45pm, motion by Patterson, second by Meccariello, all in favor, motion carried.

**Capuano Site Plan and Special Use Permit Public Hearing:** Stabile asked for a motion to enter the public hearing, motion by Hermans, second by Patterson, all in favor, motion carried.

David Burke, the applicants' architect, then shared the updated site plan and went over it for the public.

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Stabile then asked if anyone from the public was looking to speak. There were none.

Stabile then asked the board if anyone would like to speak. There were none.

Jurkowski then asked the status of the BOH approval. Dean Kent, the applicants' contractor, replied that the plan will be submitted to the BOH in two weeks.

The board then went over part two of the EAF.

Stabile then asked for a motion to close the public hearing, motion by Patterson, second by Meccariello, all in favor, motion carried.

The board then went over the proposed resolution (see attached).

Stabile asked for a motion to accept the resolution, motion by Patterson, second by Hermans, all in favor, motion carried.

**Stissing Farms/Town Centre:** Replansky gave a brief history of the project. This project dates back to 2003 for a site plan review of a senior residential development of 49 units. There have been several applications over the years for amendments of the site plan. These amendments were granted by the planning board after a public hearing. Replansky prepared a resolution detailing these actions. The applicant would now like a further amendment to the site plan to convert the project back from an age restricted development to a condominium development.

Replansky then asked Jurkowski to go over his memo and the phasing plan. Jurkowski said he sent the planning board a memo after meeting with the project's engineer and receiving the as built. He has created a punch list that will still need to be completed. Jurkowski used this information to update the original bond estimate. The bond is to cover the common infrastructure. Jurkowski said the bond has been updated to reflect the increase in construction cost and the components dealing with maintenance and damaged items. Jurkowski recommends the new bond estimate for \$368,200.

Jurkowski then went over the applicant's proposed phasing plan. They are proposing a plan of seven phases. Phase one will consist of building out the top of the hill and the reconstruction of the emergency access road and construction of an additional building with four units. Phase two will consist

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of constructing buildings on the lower area next to existing buildings. Phase four will be paving. Phase five will be the lower roadway portion, phase six will be the lower buildings behind the commercial building and phase seven will be the entrance to the parcel.

Hermans asked if there was a time estimate of how long it would take from phase 1 to phase 7. The applicant believes it will take 15 months.

Stabile said he realizes the applicant is anxious to get the project started, but every step of this application in the past has included a public hearing, therefore he feels there should be one. The board and Replansky agreed.

It was decided the applicant would send the notices to the neighbors so that the public hearing may take place on June 23<sup>rd</sup>. Replansky said he would like this application sent to the county for a 239M review.

Replansky said he would like to change the manner of the performance bond currently being held at Salisbury Bank.

Stabile asked for a motion to accept the resolution for conducting a public hearing on June 23<sup>rd</sup> at 8:00pm, and to submit the application for a 239M review, motion by Hermans, second by Patterson, all in favor, motion carried.

**Birch Major Subdivision Pre-application Discussion:** The applicant, David Birch, gave a brief history of the property. He is proposing a seven-lot subdivision. The applicant wasn't sure if a conservation subdivision made sense for this property. The applicant said it's a rural area that abuts the town of Ancram. He feels this subdivision will fit in with the character of the road (Bean River Road).

Stabile asked Replansky or Weaver if a conservation subdivision decision was up to the board or not. Jurkowski said the property is located within the Pulver's Corner Hamlet Zone and under chapter 275-30, under design standards, within the hamlet area, there are both conventional and conservation subdivisions.

The applicant mentioned that parcel 5,6,7 was part of a former approved subdivision however Jurkowski could not find this information on parcel access. Birch replied that it was never filed.

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Birch then spoke a bit about the access onto the lots, one existing, and one on lot 1. Jurkowski asked if there was a house on lot 1, Birch replied yes, and Jurkowski asked why it wasn't on the map, Birch said his surveyor left it off. Jurkowski said the house should be shown.

Jurkowski asked Replansky if there was any sunset clause since the former subdivision was approved by the planning board but never filed with the county. Replansky said it is now expired. Birch said he is applying for a new subdivision.

Jurkowski said under chapter 275-30 there is a footnote that says no more than four lots may be subdivided from a parent parcel as a conventional subdivision. It was determined that the applicant has two parent parcels therefore eight parcels could be created. Stabile asked if the board has the option to waive this clause. Jurkowski said he would like the opinion of Weaver.

Weaver asked the sizes of the two parent parcels. Birch replied one is 19 acres and one is 4 acres. Weaver feels these can both be parent parcels and therefore can have a total of eight lots.

Jurkowski said the board has the right to see both a conventional subdivision and a conservation subdivision. The applicant does not understand the benefit of that. Stabile said Birch needs to show the board the benefit of a conventional subdivision.

Hermans asked if the board could ask to see both options. Jurkowski said yes. Birch felt a conservation subdivision could go many different ways and doesn't understand how he can give the board one option. Jurkowski said to go into appendix B of the Design Standards where this is a design standard for conservation subdivisions. Birch was still confused about how he could do this so Jurkowski suggested hiring a professional. Jurkowski said just as Birch has provided a proposed conventional subdivision, he should also provide on conservation one as well. Birch feels the conventional subdivision is the sensible one. Stabile said the bottom line is the board needs something to compare it to.

Birch said he thought the board would consider the conventional subdivision and then decide if that was appropriate and if it wasn't, then go to a conservation subdivision. But now he understands the board would like him to come up with a

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conservation subdivision to compare the two. Stabile replied correct.

The meeting adjourned at 10:40 pm.

Respectfully submitted by:

Tricia Devine

Michael Stabile

DRAFT