

August 10, 2023

**PINE PLAINS PLANNING BOARD MINUTES**  
**Wednesday, August 9<sup>th</sup>, 2023**  
**7:30 PM**  
**In Person and Zoom**

**IN PERSON ATTENDANCE:** Michael Stabile, Chairman  
Scott Cavey, Alternate  
Ethan DiMaria  
Dick Hermans  
Kate Osofsky  
Steve Patterson  
Vikki Soracco

**ZOOM ATTENDANCE:**

*(Members attending via Zoom do not count towards the quorum or voting.)*

**ABSENT:** Al Blackburn

**ALSO PRESENT:** Warren Replansky, Town Attorney, in person  
George Schmitt, Town Engineer, in person  
Sarah Jones, Town Liaison, in person  
Robert Ambrose, Town Board Member, in person  
Brian Walsh, Town Supervisor, in person  
Brett Bernardini, The Stissing Center, in person  
Marcus Andrews, Stewarts Shops, in person  
Reverend Sarah, Touched by Heaven's Light Day Care - in person.  
Frank Fish, BFJ Planning, in person  
Sarah Yackel, BFJ Planning, via Zoom  
Members of the Public, in person

Chairman Stabile opened the meeting at 7:30 pm with a quorum present. Stabile went over the difference between the delegate model and the trustee model of government and how he feels about the two in terms of the Planning Board.

**The Stissing Center:** The board went over the 239M referral received from Dutchess County regarding the application (see attached). The county mentioned concern over the outside lighting. Stabile asked Bernardini if it would be lit if no performances were occurring and Bernardini replied no. Stabile asked if the translucent wall was to avoid lights within the

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parking lot. Bernardini replied that the translucent wall was created to save electricity internally during the day. It also serves to light the staircase and elevator at night naturally. It is translucent and will add a soft light to the parking lot.

DiMaria thinks the hours of no exterior lighting, 12am-6am, should be written into the site plan. Bernardini said the only exterior lights they use are along the driveway but believes all lights are set to a 11pm timer.

Soracco asked if the lights on the side are going to be changed. Bernardini said the lights are moveable and will be changed after the area is paved. Soracco asked if the sign on the stairway now will be on the new stairway. Bernardini replied no.

Soracco said there are a lot of items that were approved previously and now have changed - is this site plan now the final document? Stabile believes this site plan is now complete. Stabile said if it is not on the current site plan then it is not approved. Replansky said they will have to be in compliance with the final site plan.

Soracco asked about the railings on the stairs next to the Shaw house on the west side of the building. Bernardini said the railings are already there. Soracco said it is not on the site plan. Stabile said Larson said it was addressed previously. Bernardini agreed and said there will be a railing there. Soracco said it should be on the site plan. Stabile said there is something there and the insurance company will certainly require it.

Soracco asked about the ground sign in the front by the curb cut from 2016. Soracco said it is not there, but it was previously approved. Stabile said it is not on the site plan now so it is not approved.

Soracco asked if there would be a sidewalk on the left-hand side. Bernardini said if the drawing shows a sidewalk then there will be one.

Soracco asked about the construction hours and said there is a start time in town. Stabile asked if Soracco wanted a time limit. Soracco said she just wanted to make sure they were aware. Bernardini said the same contractor will be doing the work and he assumes they know the hours. Soracco asked if it

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should be given some thought. Replansky said this is beyond the site plan and Weaver will be dealing with this.

DiMaria asked if the front marquee sign was changed. Bernardini said he was sure they would think of something else besides "CTR". Stabile said the substance of the sign is not the Planning Board's purview.

Stabile asked for a motion to direct Replansky to draft a resolution approving the site plan, motion by Hermans, second by DiMaria, roll call vote: Soracco aye, DiMaria aye, Cavey aye, Hermans aye, Stabile aye (Osofsky and Patterson abstained).

**Stewarts Shops Corp.:** The board reviewed the 239M from the county (see attached). Since the county denied the application, a super majority of the planning board will be needed to approve the application. Stabile asked Schmitt to further explain the county's remark regarding the gas canopy lighting. Schmitt said it is always bright under the canopy, which is standard operating procedures, so he is not concerned. Stabile agreed that the county's recommendation of five footcandles is too dim. Schmitt said it is all downlit and under the canopy. Andrews said at the property line he believes it is close to zero. Andrews said most gas canopies are at 30 footcandles, so this one is already below at 16 footcandles. Osofsky asked Andrews to find out what they are currently. Andrews asked if the board would like it to match the current ones. Stabile said they are just trying to understand. Osofsky asked if they are off at night. Andrews said for safety they go on a half hour before opening and a half hour after closing. Schmitt said lighting is a SEQOR issue and there is no SEQOR on this application. Schmitt said they are down lit and they are dark sky compliant.

Stabile asked Replansky where the board stands with the ZBA variance granted for the setback. Replansky said he believes the board is bound by the ZBA variance. Stabile asked if the board could allow less of a setback and Replansky replied yes.

The board then reviewed some Google Street views of the property as well as other towns with a Stewarts that match the town's comprehensive plan more. Andrews did mention that these other Stewarts were new construction, which makes a difference. Stabile asked if they would be cutting down any trees on the property. Andrews said no cutting of trees is proposed. Stewarts would be adding more trees and shrubs.

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Stabile said in his mind it is not that different, it is already there and the piece of land was already purchased and knowing how it is used, not many people walk in that area of town, except to go to Stewarts.

Schmitt said the thing that needs to be debated is yes, the proposed building goes against the town's comprehensive plan, but is it also mitigated by a landscape plan, etc.

Stabile said that gas being down longer with the site plan that goes with the comprehensive plan is a burden to the people of the town. Stabile doesn't feel it would give it a truck stop feel.

Stabile asked for the other board members' opinions. Hermans feels Stewarts is part of the community and the new plan is an improvement.

Replansky said the standard is to the extent practical and is not mandatory (re: comprehensive plan). What must be adhered to is the language in the zoning code.

Hermans also brought up the citation for the gas pump signage. It was determined that the sign does not have to have LED lights. Hermans asked if that could be altered. Hermans feels a sign with just plain numbers would be better, especially since there is no competition in town for gasoline. Andrews feels they are grandfathered in with the current sign. Replansky said that would need to be evaluated.

The board then reviewed various sign options with Andrews. The board asked that it match the stone that is already in the area. The base of the sign will not be seen, as it will be behind the wall. Andrews said LED lights are light sensitive and dim at night. The board decided they would not like the LED lights on the sign. Stabile asked Replansky if they already have an LED light there what does that mean. Replansky said it would require a variance. Stabile asked what they would do in lieu of LED lights. Andrews said they would do the "old school" numbers or mechanical numbers.

Replansky asked for the reasons to go against the county's decision. Stabile answered it does not make a material difference, there is currently vegetative screening there, and more will be added, and that it would be a hardship for the community to have the additional construction.

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A resolution will be voted on next month.

**Carson Power:** Replansky said they have narrowed the issues on the Environmental Review Pt III to the issues of Community Character Aesthetics. The board has asked their consultant planner, Frank Fish of BFJ Planning, to do a part II analysis to determine the impacts.

Fish said appendix A is quite large, so there are no hardcopies, but it is available digitally on the public folder.

Fish said there are no significant environmental impacts to the proposed action and therefore an Environmental Impact Statement is not necessary.

Fish said the next step after tonight is for Replansky to create a resolution adopting the negative declaration.

Fish reviewed the document with the board.

Fish said the visual analysis from Saratoga Associates, and the two letters regarding habitat received, and the applicant's commitment to conservation, were factors in determining the declaration.

Replansky said the public hearing will need to be completed for the special use permit and site plan portions of the application. It was decided that this public hearing will take place at the planning board's September meeting at town hall.

Replansky said he would like to have a special meeting in two weeks for the negative declaration.

Stabile asked for a motion to have a special meeting on August 23<sup>rd</sup> at 7:30pm, motion by Patterson, second by Hermans, all in favor, motion carried.

Stabile asked for a motion for a public hearing for the site plan and special use permit on September 13<sup>th</sup> at 7:30pm at town hall, motion by DiMaria, second by Patterson, all in favor motion carried.

Replansky asked for a vote to declare a negative declaration part III analysis, motion by Hermans, second by Patterson, roll call vote: Osofsky, yes, Soracco, yes, DiMaria, yes, Cavey, yes, Patterson, yes, Hermans, yes, Stabile, yes.

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**Touched by Heaven's Light Daycare:** Reverend Sarah discussed with the board where she is in her application. Rev Sarah said the BOH has signed off on the septic, etc. Schmitt said she has submitted an engineer's site plan. The board then reviewed the site plan with Rev Sarah. Stabile said certain criteria are still missing, such as parking, lighting, etc.

Rev Sarah said the biggest issue is the number of children. Rev Sarah said she has been approved to have 15 children. Rev Sarah said there is a possibility she could be approved for 20 children. Schmitt advised her to stick with one number.

Hermans said he doesn't feel comfortable approving it until the state or county has signed off on it. Rev Sarah explained that they need to see the planning board's approval first.

Schmitt said the way he has seen other towns do it is to give conditional approval based on the license being obtained and then all the other agencies see the approval and begin their inspections.

Schmitt said the engineer's signature and seal are missing from the site plan.

Stabile asked about parking and how many employees there would be. Rev Sarah said it would be 15 children and probably 4 employees. Schmitt believes it is one spot per code for the children and then one spot for each employee.

Stabile asked Replansky if there was anything specific to daycares, besides the licensing factor, that the board needs to pay attention to. Replansky said he would defer to Schmitt as he has not dealt with a daycare before. Schmitt said the board should give conditional approval so that the other agencies can begin their inspections. Schmitt said if the number of children changes then she would need to appear in front of the planning board again. Osofsky suggested she say 20 children because you could always have less children than stated.

Stabile said the board will review the site plan for the September meeting.

The board advised the applicant to review the requirements stated by Weaver, and in the town's code, to help her realize what will be needed on her site plan before the next meeting.

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**Other Business:** Stabile said he has spoken to Weaver regarding the Capuano residence at 3032 East Church Street and the hole that is in the ground after the house was torn down. Stabile said Weaver spoke with the owners and the construction person. Stabile is waiting to hear back from Weaver regarding it. Weaver asked for a solid black fence, in lieu of the orange, and to make the area safer. The board discussed what can be done if this ever happens again in the future. Jones feels it will be resolved satisfactorily.

**Approval of the July Meeting Minutes:** Motion by Hermans to accept the July meeting minutes, second by Patterson, all in favor, motion carried.

Motion to adjourn at 9:23 pm by Patterson, second by Osofsky, all in favor, motion carried.

Respectfully submitted by:

Tricia Devine

Michael Stabile

### 239 Planning/Zoning Referral - Exemption Communities

Municipality: **Town of Pine Plains**

Referring Agency: **Planning Board**

Tax Parcel Numbers(s): **3781910000**

Project Name: **The Stissing Center**

Applicant: **The Stissing Center**

Address of Property: **2946-2950 Church St, Pine Plains, NY 12567**

Please Fill in this section

<p style="text-align: center;"><b>Exempt Actions:* 239 Review is NOT Required</b></p> <ul style="list-style-type: none"> <li>● Administrative Amendments (fees, procedures, penalties, etc.)</li> <li>● Special Permits for residential uses (accessory apts, home occupations, etc.)</li> <li>● Use Variances for residential uses</li> <li>● Area Variances for residential uses</li> <li>● Renewals/Extension of Site Plans or Special Permits that have no changes from previous approvals</li> </ul> <p style="text-align: center;"><b>No Authority to review these Actions</b></p> <ul style="list-style-type: none"> <li>● Subdivisions / Lot Line Adjustments</li> <li>● Interpretations</li> </ul> <p><input type="checkbox"/> Exempt Action submitted for informal review</p>	<p style="text-align: center;"><b>Actions Requiring 239 Review</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Comprehensive/Master Plans</li> <li><input type="checkbox"/> Zoning Amendments (standards, uses, definitions, district regulations, etc.)</li> <li><input type="checkbox"/> Other Local Laws associated with zoning (wetlands, historic preservation, affordable housing, architectural review, etc.)</li> <li><input type="checkbox"/> Rezonings involving all map changes</li> <li><input type="checkbox"/> Architectural Review</li> <li><input checked="" type="checkbox"/> Site Plans (all)</li> <li><input type="checkbox"/> Special Permits for all non-residential uses</li> <li><input type="checkbox"/> Use Variances for all non-residential uses</li> <li><input type="checkbox"/> Area Variances for all non-residential uses</li> <li><input type="checkbox"/> Other (Describe):</li> </ul>	<p style="text-align: center;"><b>Parcels within 500 feet of:</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> State Road:</li> <li><input checked="" type="checkbox"/> County Road:</li> <li><input type="checkbox"/> State Property (with recreation area or public building)</li> <li><input type="checkbox"/> County Property (with recreation area or public building)</li> <li><input type="checkbox"/> Municipal Boundary</li> <li><input type="checkbox"/> Farm operation in an Agricultural District</li> </ul>
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Date Response Requested:

Entered By: **Devine, Tricia**

\*These actions are only exempt in municipalities that signed an intermunicipal agreement with Dutchess County to that effect.\*

For County Office Use Only

### Response From Dutchess County Department of Planning and Development

<p><b>No Comments:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Matter of Local Concern</li> <li><input type="checkbox"/> No Jurisdiction</li> <li><input type="checkbox"/> No Authority</li> <li><input type="checkbox"/> Withdrawn</li> <li><input type="checkbox"/> Incomplete - municipality must resubmit to County</li> <li><input type="checkbox"/> Exempt from 239 Review</li> <li><input type="checkbox"/> None</li> </ul>	<p><b>Comments Attached:</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Local Concern with Comments</li> <li><input type="checkbox"/> Conditional</li> <li><input type="checkbox"/> Denial</li> <li><input type="checkbox"/> Incomplete with Comments- municipality must resubmit to County</li> <li><input type="checkbox"/> Informal Comments Only (Action Exempt from 239 Review)</li> </ul>
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Date Submitted: <b>7/13/2023</b>	Notes:	<input type="checkbox"/> Major Project
Date Received: <b>7/26/2023</b>		Referral #: <b>ZR23-196</b>
Date Requested:		
Date Required: <b>8/18/2023</b>	<input type="checkbox"/> Also mailed hard copy	Reviewer:
Date Transmitted: <b>7/28/2023</b>		



**WILLIAM F.X. O'NEIL**  
COUNTY EXECUTIVE



**EOIN WRAFTER, AICP**  
COMMISSIONER

**COUNTY OF DUTCHESS**  
DEPARTMENT OF PLANNING & DEVELOPMENT

July 28, 2023

To: Planning Board, Town of Pine Plains  
Re: **ZR23-196, The Stissing Center**  
Lot: 553971

The Dutchess County Department of Planning and Development has reviewed the subject referral within the framework of General Municipal Law (Article 12B, §239-l/m).

**ACTION**

The applicant is seeking site plan approval for an amended site plan involving a redesigned addition at the rear of the building, two additional paved ADA parking spaces, revisions to the main stairway, additional site lighting, and other associated changes.

**COMMENTS**

While we find the proposed site plan amendments to be a matter of local concern, we offer the following comment for the Boards consideration:

The Board may want to see a photometric plan showing the average distribution of light levels, in footcandles, across the site in order to ensure that illumination from light fixtures do not exceed 0.1 footcandles on adjacent residential properties or 0.5 footcandles on adjacent businesses when measured along the shared property's boundary – a requirement of §275-38(C)(7). For parking lots and pedestrian areas, an average of 0.1-1 footcandle is recommended.

If the Kalwall lighting system proposed for the rear addition's stairwell is to be lit at night, the light emanating from the structure would contribute to "skyglow" as it would not be shielded so that the angle of illumination is directed downward. To avoid any unnecessary contribution to light pollution, the town code provides in Sections 275-38(C)(5) and 275-35(H), that no direct glare shall be permitted and that the source of the light shall be fully shielded with 90-degree cut off luminaries. While light control shall be accomplished primarily through the proper selection and layout of lighting fixtures (§275-38(C)9), §275-38(A)(1)(d) states that the Board may require certain fixtures be extinguished during nighttime hours for the purpose of minimizing light pollution within the Town.

**RECOMMENDATION**

The Department recommends that the Board rely upon its own study of the facts in the case with due consideration of the above comments.

Eoin Wrafter, AICP, Commissioner

By

Clayton Gurnett, Junior Planner

<b>Dutchess County Department of Planning and Development</b>		<b>To</b>	<b>Date</b> #pgs	
		<b>Co./Dept.</b>	<b>From</b>	
		<b>Fax #</b>	<b>Phone #</b>	
<b>239 Planning/Zoning Referral - Exemption Communities</b>				
Municipality: <b>Town of Pine Plains</b>				
Referring Agency: <b>Planning Board</b>				
Tax Parcel Numbers(s): <b>4439430000</b>				
Project Name: <b>Stewarts Shops Corp.</b>				
Applicant: <b>Stewarts Shops Corp.</b>				
Address of Property: <b>7710 Main St, Pine Plains, NY 12567</b>				
Please Fill in this section	<p style="text-align: center;"><b>Exempt Actions:*</b> <b>239 Review is NOT Required</b></p> <ul style="list-style-type: none"> <li>● Administrative Amendments (fees, procedures, penalties, etc.)</li> <li>● Special Permits for residential uses (accessory apts, home occupations, etc.)</li> <li>● Use Variances for residential uses</li> <li>● Area Variances for residential uses</li> <li>● Renewals/Extension of Site Plans or Special Permits that have no changes from previous approvals</li> </ul> <p style="text-align: center;"><b>No Authority to review these Actions</b></p> <ul style="list-style-type: none"> <li>● Subdivisions / Lot Line Adjustments</li> <li>● Interpretations</li> </ul> <p><input type="checkbox"/> Exempt Action submitted for informal review</p>	<p style="text-align: center;"><b>Actions Requiring 239 Review</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Comprehensive/Master Plans</li> <li><input type="checkbox"/> Zoning Amendments (standards, uses, definitions, district regulations, etc.)</li> <li><input type="checkbox"/> Other Local Laws associated with zoning (wetlands, historic preservation, affordable housing, architectural review, etc.)</li> <li><input type="checkbox"/> Rezonings involving all map changes</li> <li><input type="checkbox"/> Architectural Review</li> <li><input checked="" type="checkbox"/> Site Plans (all)</li> <li><input checked="" type="checkbox"/> Special Permits for all non-residential uses</li> <li><input type="checkbox"/> Use Variances for all non-residential uses</li> <li><input type="checkbox"/> Area Variances for all non-residential uses</li> <li><input type="checkbox"/> Other (Describe):</li> </ul>	<p style="text-align: center;"><b>Parcels within 500 feet of:</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> State Road:</li> <li><input checked="" type="checkbox"/> County Road:</li> <li><input type="checkbox"/> State Property (with recreation area or public building)</li> <li><input type="checkbox"/> County Property (with recreation area or public building)</li> <li><input type="checkbox"/> Municipal Boundary</li> <li><input checked="" type="checkbox"/> Farm operation in an Agricultural District</li> </ul>	
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Date Received: <b>6/28/2023</b>		Referral #: <b>ZR23-195</b>
Date Requested:	<input type="checkbox"/> Also mailed hard copy	Reviewer:
Date Required: <b>7/27/2023</b>		
Date Transmitted: <b>7/27/2023</b>		

**WILLIAM F.X. O'NEIL**  
COUNTY EXECUTIVE



**EOIN WRAFTER, AICP**  
COMMISSIONER

**COUNTY OF DUTCHESS**  
DEPARTMENT OF PLANNING & DEVELOPMENT

July 27, 2023

To: Town Board, Town of Pine Plains  
Re: **ZR23-194, Stewart's Shops Site Plan**

The Dutchess County Department of Planning and Development has reviewed the subject referral within the framework of General Municipal Law (Article 12B, §239-l/m).

**ACTION**

The applicant is seeking special permit and site plan approval and for the construction of a new convenience store and gas canopy, to replace the existing structures on site once completed, in the H-MS District.

**COMMENTS**

§275-56(J)(3) of the Town of Pine Plains zoning code states that, to the extent practicable, "pumps *shall* [emphasis added] be sited to the side of a principal building". This would appear to be practicable, as evidenced by the applicant's provision of several alternative site plans with layouts which sought to comply with the requirements provided in the code regarding convenience stores with gas facilities. The resolution provided by the Zoning Board of Appeals, granting the 138.5-foot variance from the required front yard setback of a maximum of 25 feet provides that the applicant has stated that it is not feasible to complete the project meeting the required front yard setback without closing down the business for a time period that would deprive the community of the services provided, not that it would not be feasible to do so otherwise.

We understand that having to close operations during construction may be a temporary inconvenience to both Stewart's Shops Corp. and the local residents that they serve, however, we maintain the position that the potential long-term impacts of this decision should take precedence over these concerns. Allowing the location of the convenience store currently being proposed to go against what is provided in the code for zoning requirements in the H-MS district would set a poor precedent for site plan decisions made at this important gateway location in the future.

While the applicant has acquired a variance for the proposed front yard setback of 163.5 feet, the variance resolution expressly states that the variance granted was not considered to be substantial based upon the Planning Board's ability to determine the final location during the site plan approval process. This point is once again reiterated at the end of the resolution, emphasizing that the variance was granted by the Zoning Board of Appeals with the understanding that the Planning Board will have final approval over the building location.

For the Boards consideration, to see that such alternative layouts are both practicable and feasible, look to the Stewart's Shop located at 2140 Broadway in Schenectady that exemplifies many of the desired outcomes that could be achieved at the re-developed Pine Plains store if the requirements of the zoning code are adhered to. This store is located on an even smaller lot of .79 acres with the convenience store sited and oriented toward the street, creating a continued sidewalk connection, with the canopy, fuel pumps, and parking placed to the side in a secondary position.

**Lighting**

The lighting plan shows levels up to 16+ footcandles on the gas canopy. While high-security areas may sometimes need up to 5 footcandles, anything higher is considered to be a waste of electricity and a source of glare and light pollution.

**RECOMMENDATION**

For the reasons stated above, our Department recommends that the Board **not** grant site plan approval for the new convenience store and gas canopy, as they are currently proposed. The Board and the applicant should further consider alternative site plan layouts that are more consistent with the Town's zoning law.

**Voting and Reporting Requirements:** If the Board acts contrary to our recommendation, the law requires that it do so by a majority plus one of the full membership of the Board and that it notify us of the reasons for its decision.

Eoin Wrafter, AICP, Commissioner

By



Clayton Gurnett, Junior Planner