

Minutes of a regular meeting of the
Johnson City Planning Board held on
September 25, 2018 at 7:30pm at
243 Main St., Johnson City, NY

Present: Gerald Putman, Chairman
Andrew Holbert, Vice Chairman
Donald Slota
Greg Matyas
Mary Jacyna

Also Present: Keegan Coughlin, Attorney for the Village
Marina Lane, Town of Union Senior Planner

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

Chairman Putman called the meeting to order at 7:30pm and noted the emergency exits.

MINUTES

A motion to approve the minutes from the August 28, 2018 meeting was made by Mr. Holbert and seconded by Mr. Slota. The motion passed with all those present voting in the affirmative.

PRIVILEGE OF THE FLOOR

Chairman Putman opened the privilege of the floor.

Chairman Putman closed the privilege of the floor.

COMMUNICATIONS - None

CONTINGENCIES - None

OLD BUSINESS - None

NEW BUSINESS

Munchies Express – 111 Riverside Drive

SEQRA Determination, Public Hearing for Modification of the Special Permit – Request for Extension of Deliver Hours, Vote on Special Permit

Paul Della Penna was granted the transfer of a Special Permit for a take-out restaurant at 111 Riverside Drive, Munchies Express, in July 2018. Due to the residential nature of the surroundings, the regular pizza shop hours were limited to be open no later than 11 p.m. The Special Permit approval included



the stipulation that delivery only is permitted until 1 a.m., with delivery vehicle parking restricted 103 Riverside Drive after 11:00 p.m. Since operating the business, Mr. Della Penna has submitted a request to extend the approved hours of delivery to 2:00 a.m. on Fridays and Saturdays.

Chairman Putman reviewed Parts I, II and III of the short Environmental Assessment Form (E.A.F.).

A motion to declare a negative declaration under SEQRA for the property at 111 Riverside Drive was made by Mr. Holbert and seconded by Mrs. Jacyna.

Motion Carried - Vote:

Yes – 5 (Matyas, Jacyna, Holbert, Slota, Putman) No – 0 Absent – 0

Chairman Putman opened the public hearing.

Marie Lukasik, 106 Martin Ave – She lives across the street from the business. She appeared in support of Mr. Della Penna’s request to extend hours of delivery on Fridays and Saturdays to 2:00 am. Ms. Lukasik commented that Mr. Della Penna has been in the neighborhood only for a few weeks, but he has already proven to be a good neighbor. She and her husband support the application.

Julie Ann Keller, 98 Martin Ave – Ms. Keller agreed with Ms. Lukasik’s statements and added that the food is good and they are eager to continue to go to the business. While the business is running, the exhaust fan and the smell of food is very bearable. Mr. Della Penna makes an effort to keep the area behind the business cleaned up, which is appreciated.

Mr. Della Penna was present on behalf of the application. He owns the business, not the building.

Chairman Putman asked how many deliveries the business makes between midnight and one am.

Mr. Della Penna responded that it could be up to twenty. It goes in spurts, busy at dinner, then there is some down time. Then between 10:00 p.m. – 1:00 a.m. they may have 30 deliveries. Mr. Della Penna further explained that his customers have asked if he could deliver later in the night. Right now, only Domino’s delivers until 2:00 a.m. He is trying to work with everyone, including his neighbors, to make everyone happy.

Chairman Putman read the staff report including Department Head comments. Planning staff recommend granting the extension of delivery hours through January 1, 2019, with the option to request a permanent extension if requested at the December 2018 meeting. The daily hours of public operation shall be between 10 a.m. and 11 p.m. due to the proximity of residences. Delivery operation only shall be permitted until 1 a.m. Sundays through Thursdays. Delivery only shall be extended to 2:00 a.m. on Fridays and Saturdays. Delivery vehicles shall park only at 103 Riverside Drive after 11 p.m.

Department Head Comments:

- **Code Enforcement:** Recommends denial. If the orders stop at 2 am, they could be leaving at 2:30 am or so for the delivery and getting back to the location at 3 am. This could be an issue for residential neighbors, and for Code Enforcement to enforce.
- **Fire Dept:** No concern about an extra hour.
- **Police Dept:** Had no concerns.



- **Public Works & Water Dept:** No compelling interest.

Chairman Putman advised Mr. Della Penna to contact the Planning Department the first week of December regarding being on the December meeting agenda. Following general discussion about the renewal, Planning Board members agreed that Mr. Della Penna would not be required to attend the December meeting, and they accepted his request for the permanent extension of delivery hours at this meeting, to be on the December agenda.

Chairman Putman closed the public hearing.

A motion to approve a modification of the special permit to be open for delivery until 2:00 a.m. on Fridays and Saturdays until January 1, 2019, with staff recommendations, was made by Mrs. Jacyna and seconded by Mr. Slota.

Motion Carried - Vote:

Yes – 5 (Matyas, Jacyna, Holbert, Slota, Putman) No – 0 Absent – 0

Oasis Stone Scapes - 100 Oakdale Road

SEQRA Determination, Public Hearing for Modification for Special Permit for outdoor display area, Vote on Special Permit

Coughlin & Gerhart recused themselves on this matter due to a conflict of interest. John Sacco submitted the special permit application to allow an outdoor display at 100 Oakdale Road. It will be a seasonal display of a wood pergola.

Chairman Putman reviewed Parts I, II and III of the short Environmental Assessment Form (E.A.F.).

A motion to declare a negative declaration under SEQRA for the addition of an outdoor display at the property at 100 Oakdale Road was made by Mr. Matyas and seconded by Mr. Holbert.

Motion Carried - Vote:

Yes – 5 (Matyas, Jacyna, Holbert, Slota, Putman) No – 0 Absent – 0

Chairman Putman reviewed the memorandum submitted by the Planning Department. Mr. Sacco intends to place the pergola over two parking spaces. He has five employees at the site, which requires five parking spaces at one space per employee. The parking lot has 66 parking spaces, therefore the placement of the pergola in the parking lot will not impact required parking. The Planning Department recommends approval of the Special Permit for Outdoor Display with the following conditions: The outdoor display area shall not block automotive traffic, fire lanes, or other travel lanes. The items for display are for sale and said area is not used for storage purposes. The Special Permit shall expire should the property or business be sold to another entity, per § 300-66.11. Transferability: a) This special permit is not transferable except upon approval by resolution of the issuing board. b) This special permit shall authorize only one special use, the seasonal outdoor display of landscaping elements, and shall expire if the landscaping business ceases for one year for any reason.

Department Head Comments:



- **B. C. Planning:** found no significant county-wide or inter-community impacts associated with the project. The department did recommend the Planning Board should remind the applicant of the hazards of development in the preliminary floodplain.
- **NYSDOT** No comments.
- **Code Enforcement:** No impact to the parking requirement; have no concerns.
- **Fire Department:** No concerns with the proposal.
- **Police Department:** No compelling interest.
- **Public Works & Water:**
 - The owner should determine the location of the property's underground utilities to determine if the utilities are located beneath the display. If they are, it would be prudent that the owner have a plan in place to remove the display quickly in the case of any needed repairs to the utilities.

Chairman Putman opened the public hearing.

Mr. Slota asked about the ownership of the businesses. Mr. Sacco responded that he owns both businesses, A Great Choice Lawn Care and Oasis Stone Scapes.

Chairman Putman asked if he still has the property on Riverside Drive. Mr. Sacco confirmed he does but it is a separate entity that owns it. 900 Riverside Drive was purchased for a storage yard so as to not add clutter to 100 Oakdale Road.

Chairman Putman closed the public hearing.

A motion to grant the special permit for the outdoor display at 100 Oakdale Road including the staff recommendations was made by Mr. Matyas and seconded by Mr. Holbert.

Motion Carried - Vote:

Yes – 5 (Matyas, Jacyna, Holbert, Slota, Putman) No – 0 Absent – 0

ADJOURNMENT

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

The meeting was adjourned at 8:01pm.

Respectfully submitted,

Kim Cunningham
 Planning Board Clerk

