

**Minutes of the Town of Perinton  
Planning Board Meeting of January 15, 2014**

**Planning Board Members Present**

Mark Anderson, Chairman  
T.C. Lewis  
James P. Brasley  
Kenneth O'Brien  
Craig Antonelli  
Sandra Neu

**Absent**

Norm Gardner

**Conservation Board Members Present**

David Belaskas  
Andrew Rodman

**Town Officials Present**

Robert Place, Town Attorney  
Thomas Beck, Commissioner, DPW  
Robert Kozarits, Town Engineer  
Michael Doser, Director Code Enforcement & Development (CED)  
Lori Stid, Planning Board Clerk

Mr. Anderson called the meeting to order at 7:30 pm, introduced the Board and staff present, and explained the procedures.

**Sign(s):**

**Firestone – 7374 Pittsford-Palmyra Road**

Laura Baranes, Premier Sign, presented the application to the Board. She states that she submitted a revised sign application on 1/14/14 to the Town, and this allows the square footage to be under what is allowed, and there is now no need for a variance. They are proposing a sign for each face of the building.

Mr. Anderson asked for questions or comments from the audience, and there were none.

Mr. Anderson asked for questions or comments from CED. Mr. Doser states that CED issued comments as follows on the revised application:

**REVISED COMMENTS**

**I. Firestone Complete Auto Care – 7374 Pittsford Palmyra Road**

**Reference Code: Commercial Section 174-9 (D) (3) states: On commercial buildings housing more than one tenant or type of business, only one sign for each outside public entrance shall be permitted on the exterior of the building for the purpose of advertising either the name or nature of the businesses contained therein. Should said building front on more than one highway, the placement of duplicated signs or a second sign, of the nature defined above, on the second side fronting such a highway may be permitted at the discretion of the Planning Board.**

1. The applicant has submitted revised drawing dated January 14, 2014.
2. The new revised plans propose signage is for two signs, one on the front of the building and one on the side facing Rt.31. (13.6" x 2'1/2") 27.6 sq. ft. each sign.
3. The building liner frontage is 65 feet (65 x 1.5) total signage allowed is 97.5 sq. ft. the total new proposed for both signs is 55.2 sq. ft.
4. A variance was granted on 12/18/89 to allow a second sign (1.5 feet x 24 feet) on the south side of the building; therefore the new proposed second sign facing Rt.31 shall not exceed 36 sq. ft., the new proposed sign meets this condition.
5. The revised plan meets Town Code.
6. A sign permit must be issued within six months.

Ms. Neu states that she supports the sign, as revised and feels it is an improvement to what currently exists.

Mr. Antonelli supports the sign as revised.

Mr. O'Brien supports the sign, as revised and feels it is attractive and an improvement to what currently exists.

Mr. Brasley asks Mr. Doser if this sign needs approval from HAC because it is in the Egypt historic district, and Mr. Doser states yes. Mr. Brasley supports the revised sign as submitted

Mr. Lewis asks what the white letters are that states since 1926. The applicant states it is a part of the logo. Mr. Lewis asks if they could live without those words. The applicant states they would if they had to.

Mr. Anderson states that this is a major tenant in this plaza. This is a recognizable logo and the colors are consistent with what is in the plaza.

Mr. Brasley made a motion to grant approval for a sign application submitted to the Town on 12/6/2013 with revisions submitted to the Town on 1/14/14, subject to the following conditions:

1. Applicant to omit the white lettering which states "since 1926".
2. Applicant must obtain Certificate of Appropriateness from Historic Architecture Commission.
3. The new revised plans propose signage is for two signs, one on the front of the building and one on the side facing Rt.31. (13.6" x 2' 1/2") 27.6 sq. ft. each sign.
4. The building liner frontage is 65 feet (65 x 1.5) total signage allowed is 97.5 sq. ft. the total new proposed for both signs is 55.2 sq. ft.
5. A variance was granted on 12/18/89 to allow a second sign (1.5 feet x 24 feet) on the south side of the building; therefore the new proposed second sign facing Rt.31 shall not exceed 36 sq. ft., the new proposed sign meets this condition.
6. A sign permit must be issued within six months.

Mr. Lewis seconds the motion.

Motion carries 6 – 0.

**Pended Application(s):**

**Be Walters Retail Development.** Parrone Engineering, as agent for Mamason's Perinton, LLC (Le Thi Be Walters), owner of properties located at:

- 721 Pittsford-Victor Road - 179.10-1-44
- 725 Pittsford-Victor Road - 179.10-1.43;
- 735 Pittsford-Victor Road- 179.10-1.42;
- 741 Pittsford-Victor Road - 179.10-1.41;
- 747 Pittsford-Victor Road - 179.10-1.40;
- 751 Pittsford-Victor Road - 179.10-1.39;
- 6 Laird Lane - 179.10-1.45,

requesting final site plan approval for the conversion of the single family residence at 721 Pittsford Victor Road to office space, the existing Subway building to remain unchanged, the church building to be lowered with a rear addition to facilitate handicap access to the building, construction of a 2,577 s.f. restaurant facility with a pick-up window and seasonal outdoor seating area for 9 patrons, and construction of a 2,740 s.f. building for office/retail use.

**Presenter:** Edward Parrone, Parrone Engineering  
**Zoned:** Commercial

Mr. Anderson gave a brief history of this project. There have been over 24 public meetings on this project since it began in 1995. It has been under a great deal of review by the Planning Board, Historic Architecture Commission, Zoning Board of Appeals, Conservation Board, and Town staff. In 2006 after extended analysis and revisions, final site plan approval was given to the project. Due to economic conditions, the plan was never implemented, and the approval from the Planning Board lapsed. In conjunction with that approval, a Special Use Permit was issued by the ZBA for the drive-thru. That permit is still in existence today and is a valid permit. There are conditions that were imposed on that permit. The conditions of that approval are still in existence (ambient noise level from sound study). There was also a condition that there be a 6' natural color vinyl fence surrounding the drive-thru and this is still valid. Subsequent to this, there was a change in the Town Code, in which the Town Board now would be the reviewing Board for drive-thru's in historic districts. That change in the law does not supersede any existing Special Use Permits, so therefore this Special Use Permit is still valid. In the fall of 2013, this Board granted preliminary site plan approval with a number of conditions, and an environmental review was done and a SEQR determination was made that there would be no negative impact to the environment as a result of this development. Tonight, this Board is considering final site plan approval for this project.

Ed Parrone presents his application to the Board as per letter of intent submitted to the Board as shown below:

019



ROCKSOLID

November 6, 2013

Mr. Mark Anderson  
Planning Board Chairman  
Town of Perinton  
1350 Turk Hill Road  
Fairport, New York 14450

THE PIANO WORKS  
349 W. COMMERCIAL STREET  
SUITE 3200  
EAST ROCHESTER, NY 14445  
T 585.586.0200  
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WWW.PARRONEENG.COM

Re: Be Walters Retail Development – Pittsford-Victor Road  
Submission for Final Site Plan Approval

Dear Mr. Anderson:

On behalf of our client, Mamasan's Perinton LLC (Le Thi Be Walters), we are submitting revised construction drawings for the proposed Be Walters Retail facility. We are already scheduled to appear at the December 4, 2013 Planning Board agenda for Final Site Plan Approval.

The plans have been revised to address the updated NYSDEC 100' wetland buffer setback. Major changes include the realignment of the driveway, dumpster and wall behind Proposed Buildings #1 and #2. The infiltration basin was also shifted closer to the asphalt drive at the west side of the property. All adjustments were made to remove structures and a majority of the proposed grading from the 100' wetland buffer area.

Enclosed with this submission are fifteen (15) copies of the updated Final Site Plans. We believe that all issues from Preliminary Site Plan approval have been met and that this project will be a benefit to the entire Bushnell's Basin Community. We look forward to presenting this project for Final Site Plan approval to the Planning Board and the Community. In the meantime, if you should have any questions or require additional information, please contact our office.

Respectfully submitted,

Jonatha L. Meade, P.E.  
Parrone Engineering

Enclosure

Cc: Be Walters  
Randal Peacock  
Thomas P. Young – Zoning Board Chairperson  
Thomas C. Beck – Commissioner of Public Works  
Mike Doser – Director of Code Enforcement and Development

With him is the owner and developer of the project, Be Walters, Randy Peacock, architect for the project, and Alan Knauf, Esq., who is legal counsel for Ms. Walters. Preliminary site plan approval and a Negative Declaration of SEQR was granted on 9/18/13. They received a Certificate of Appropriateness from HAC on 10/8/13. They are scheduled for the 1/27/14 meeting for the ZBA. The ZBA granted a variety of area variances on 10/23/06. They were primarily front setbacks; there were some rear setbacks, driveway access, and the size of the parcel. The Special Use Permit is still in place; there is no expiration date. There were conditions of approval in September, 2013 and they have re-addressed those with this request for final. After a 5 year period the wetlands need to be redefined. It is located in the south western part of the parcel. The NYS DEC wetland was redefined as per State law. They needed time to adjust this. The stormwater facility moved slightly to the north and the drive for the drive-thru moved slightly. They are not in the adjacent area. There is no Army Corp Wetland here; this is a DEC wetland. The maximum height of the retaining wall is 8'. He acknowledged receipt of comments from DPW/CED. They have no issue with the comments. He acknowledges buildings 1 and 2 will require site plan approval and HAC approval in the future for elevations. They are ok with the removal of three parking spaces as per DPW comments. They are providing Subway with an outdoor area for Subway customers for outdoor eating.

Mr. Knauf states that he represents the applicant. He states that he wishes to briefly address some of the issues that were raised by one of the neighbors who is represented by Ms. Zoghlin who submitted a letter to the Town dated December 4, 2013 (which is a part of the record). This Board granted preliminary approval in September of 2013. The plan that was submitted for final is consistent with the preliminary approval. A Negative Declaration for SEQR was granted in September, 2013. This was an

unlisted action, so they were not required to go through and include the involved agencies. A determination was made. Stormwater, traffic and various issues were addressed. You could only revisit or rescind a Negative Declaration if there was a significant change to the plan or significant new information was discovered, such as architectural relics were discovered, which might raise an issue. That is not the case here. Nothing has really changed here. This project has been studied significantly over the past two decades. An issue was raised as to whether you could have a stormwater detention facility in a residentially zoned area. Mr. Doser has made a ruling that makes a lot of sense that it is not a commercial structure or commercial use; it is more akin to a utility. This is the determination of the Town that the Board should abide by. The Special Use Permit very clearly stated that it did not expire, so that the change in legislation did not impact the validity of the permit. Given the plan being consistent with the preliminary plan that has already been approved, it is appropriate for it to go through with final approval tonight.

Mr. Anderson states that on September 18, 2013, the Conservation Board did make a recommendation for a Negative Declaration of SEQR that was adopted by the Planning Board and asks if there is any new or additional information from the Conservation Board regarding this project that should be considered. Mr. Belaskas states that on 9/18/13, the Conservation Board recommended a Negative Declaration of SEQR. They evaluated all of the environmental issues, including, but not limited to the stormwater management, the lighting, the traffic, the noise, the landscaping, etc. In addition, this project is a redevelopment of an existing site, which the Conservation Board encourages. The wetlands have been re-delineated and there is no significant change, and the Conservation Board has no additional concerns with this application.

Mr. Anderson asked for questions or comments from CED. Mr. Doser states that there was a question as to whether the stormwater facility should be considered an accessory commercial structure. Under NYS Building Code, a stormwater facility is not considered a structure. The Town defines a structure in the context of the NYS Building Code. In regards to the time frame for the Special Use Permit, the approval listed as a condition of approval that identifies that the permit does not have an expiration date. By virtue of that condition, the permit remains valid today.

Mr. Anderson asked for questions or comments from DPW. Mr. Kozarits states that DPW issued comments as follows:

#### General

1. The applicant has acknowledged that an executed stormwater maintenance agreement between the Town of Perinton and the owner, which describes the type and frequency of inspection and maintenance, will have to be executed by the owner prior to final plan signatures.
2. The applicant has acknowledged that a Letter of Credit will be required for all site improvements, including landscaping, sanitary sewer facilities, stormwater drainage facilities and pavements.
3. This project needs approval from the Zoning Board of Appeals (ZBA) for a number of variances. Identify, with an asterisk, the required variances under the Project Statics. Their date of approval needs to be noted on the plans.
4. Extend the curb line behind the subway building westerly to the north end of the parking lot and reconfigure the spaces. This will improve vehicle safety and maneuverability in this area and allow for the creation of additional green space.
5. The "proposed" sanitary sewer easement to the Town shown on the Utility Plan has been filed along with the sidewalk easement shown on the Layout Plan. Please provide the Liber and page references for these easements.
6. The applicant needs to file a re-subdivision plan combining all the parcels of this project into a single parcel prior to receiving final approval signatures.
7. Add a signature block to the Grading and Erosion Control Plan, Drawing C7.0.
8. Revise the proposed vinyl fence color to an earth tone, as required when the Special Use Permit was granted for the drive-thru.
9. Add a note to the plans stating "all site work for this project is to be completed prior to receiving a C of O for any existing or proposed structures and includes all grading, pavements, utilities and landscaping".
10. Add a note to the plans stating that the architectural elevations for proposed buildings 1 and 2 require Planning Board and HAC approvals prior to receiving a building permit.

The applicant has done due diligence in terms of the infiltration that is being proposed. Flow rates off of the site will be less than what exists today. The applicant had to follow NYS DEC guidelines as well as the Irondequoit Creek watershed guidelines. The stormwater facility will do a good job.

Mr. Beck states that a letter of credit will be required for all site improvements. There will be no phasing of this project. A re-subdivision map is required to be filed combining all of these parcels into a single parcel.

Mr. Anderson asked for questions or comments from Attorney Place. Mr. Place recommends that some of the conditions that were imposed for the SUP in 2006 be imposed as conditions for site plan approval if this goes forward.

Mr. Anderson states that the Town has received numerous letters and e-mails from neighbors regarding this project.

Mindy Zoghlin, Esq., states that she represents Dr. Ik-Sung Kwon and Zuzana Kwon. And has submitted a letter to the Town dated 12/4/13, which is a part of the record. She is surprised to hear that a determination has been made by Mr. Doser about the stormwater management facility being more in the nature of a utility rather than a structure, and she wonders if that determination was made in writing and how that determination was communicated to the applicant or anyone else, as she did not hear about it. Mr. Anderson states that he has a copy of a memo from Mr. Doser to the Town Clerk that was dated January 6, 2014. He asks if that is his formal comment. Mr. Doser states yes. Ms. Zoghlin requests a copy of that. Mr. Place states that it has not been filed yet. A copy was given to Mr. Knauf as he asked that an interpretation be made. Ms. Zoghlin asks if it will be filed with the Clerk. Mr. Place states yes. Ms. Zoghlin asks the Board to reconsider this determination. In this case, what they have is a proposal to construct a stormwater management facility in an area that is zoned Residential A and this is improper because only single family residences, one story accessory buildings, customary home occupations, public buildings and grounds and townhomes are permitted uses in a Residential A district. In this case the stormwater management system is clearly an accessory to the commercial use that is being developed by the applicant. The engineering report goes into enormous detail about the structural and engineering components of this facility. It is a storm conveyance network that has an infiltration basin, a trench, emergency spillway overflow, traps to intercept sediment, dykes, swales and fencing, etc. This is not just a ditch. It is a structure under the definition of structure that is set forth in the Perinton Town Code. The Code in Perinton defines a structure as anything that is built or erected which rests upon or in the ground or requires the support of the ground or is attached to any building including excavations. She submits that in this Town, the stormwater management facility is a structure and is accessory to the commercial use that is being proposed on the commercially zoned part of this land. You can't put it in a residentially zoned portion of this land unless the Town either rezones the parcel or unless the applicant were to apply for and receive a use variance from the Zoning Board of Appeals. She understands that the Special Use Permit that was granted in 2006 had a determination that was made that the Permit did not expire. However, in June, 2010, when the Town Board amended the Zoning Code to impose additional requirements for drive-thru's in Historic Districts, the prior determination that granted the Special Permit became, at best, a pre-existing, non-conforming use. Since the pre-existing, non-conforming use was abandoned for a period of more than one year after the Code was amended, it lapsed under several sections of the Town Ordinance, and it cannot be the basis for a continued drive-thru in this location. They ask the Planning Board, if it is inclined to grant final site plan approval this evening, to condition it upon the applicant applying for and receiving a Special Permit in accordance with the revised Zoning Code. It appears that the applicant failed to post a notice on all 7 of the parcels that were involved in this application as is required by Town Code. The applicant should be required to go through the process again both for preliminary and final site plan approval as it has not been properly noticed under the Town Code. She understands that wetlands expand. A recent GIS map from the County suggests that the boundaries of the wetlands are far greater than what has been represented in this application. She submits a portion of mapping into the record. She was told recently that an application was made to re-classify the wetland on this property from Class 2 to Class 1 and is in process with the DEC. The proposed site plan does not show a proposed location for snow storage as is required by Town Code. The parking is maxed out on this parcel and there is a sensitive environmental area adjacent to this parcel in the form of the wetland and it may be impacted.

Linda Baker, 31 Great Oak Lane, feels that there was inadequate posting of the meeting in September and of this meeting tonight. It left residents unaware of this project and therefore not attending to voice their concerns that are shared by many. She states that only two signs were posted. She feels that all decisions from this project should be rescinded because the posting laws are not enforced. She states that on 1/7/2014 she spoke with Tom Haley at DEC on 1/7/14 who told her that there is no current DEC permit for the project. She feels that the size of the project is way too big for the size of the parcels and is shown by the need for all of the variances. She does not feel that this project is in keeping with the Bushnell's Basin community plan from 1983. She questions what will happen when the pond keeps expanding toward the development. The GIS maps are more accurate and should be used instead of a 1980 map that is inaccurate.

Mr. Anderson asks Mr. Parrone what is the status of the DEC permit. Mr. Parrone states that they know they need a DEC permit. They had a professional wetland expert delineate the wetland and the surveyors located it precisely. GIS does not pin-point with accuracy unless it is being done as a professional land surveyor. He is aware that a permit will have to be submitted to the DEC. This is the process. Parrone Engineering was a consultant for the 1982 study that was done for the Basin. It was to allow for variances. Variances are very common in the Basin.

Devin Tellier Wolf states that she was before this Board years ago to make application for Richardson's Canal House. She feels that this project is too large for the Hamlet. Any new developments should be in proportion.

Ik Sung-Kwon, 50 Laird Lane states that he moved here two years ago. He is an eye surgeon. He drives an hour each day to go to work because he wanted to live in this location enough to make that drive. They invested a significant amount of money to move into the Basin. Bushnell's Basin is unique. There is history here, and this type of development will ruin it. He supports development. He does not want the stormwater facility in front of his home; it is not acceptable. There are a lot of restaurants already in the Basin and they don't need any more. The residential value of the homes will go down if this commercial development goes in the same as Pittsford Plaza. He states that additional traffic will cause asthma and pulmonary problems in children and is concerned how this will affect his children. He states that the parcels look bad now and should be improved to fit the history of the Basin.

Ron Lovell, 24 Laird Lane states that he does not want a drive-thru near his house. He feels that the Special Use Permit is not valid as the use was never established. He states that snow storage should be shown on the plans and asks if parking requirements are being met. He feels that the Code is not being followed. Mr. Parrone states that the Code requires 70 parking space and they are providing 78. Mr. Anderson asks Mr. Doser if CED has reviewed this. Mr. Doser states yes. Mr. Lovell feels that a 6' fence is not going to be effective screening. He inquires if fill will be added to raise the height of the fence. Mr. Anderson states no. Mr. Anderson acknowledges that there is a change in grade. Mr. Lovell showed the Board pictures that he states is of garbage on the site as it exists now. Mr. Lovell states that he is concerned about lighting and his property being lit up. Mr. Brasley states that there is a landscaping plan that was submitted as part of the application. He shows the Board pictures that he states are of fencing that he would like to have in there. He expresses concern that garbage will collect at the fence.

Zuzanna Kwon, 50 Laird Lane, showed the Board photos of existing parcels in this project and states that they are run down. They own about 11 acres and moved here two years ago. She states that she is pro-development; not this way though. She feels that just because it was approved 6 years ago doesn't mean it should be approved now. She feels that preliminary approval should be rescinded as not all parcels had signage. She feels that this proposal is not a good fit for this area, and she submits a petition into the record of a number of Perinton residents who are opposed to this plan. She does not feel that there should be a drive-thru next to the wetland or a residential neighborhood. She feels that allowing this will bring more crime into the neighborhood. She does not want a Taco Bell in Perinton; in Bushnell's Basin; this is not Henrietta. They are trying to re-classify the wetland from a 2 to a 1. She states that if they put anything else in here that is not a fast food restaurant they will back off. She is supportive of offices in this location. She does not support them doing clear cutting at 6 Laird Lane, as this protects the neighborhood from Route 96. She feels that an alternate irrigation method underground is less intrusive to the environment, and this is what was proposed in the past. If the applicant does this, they will back off. She would like a 10' wooden fence installed to protect the neighborhood from pollutants. A 6' fence will not be effective. She states that vinyl fencing contains chemicals that can affect drinking water. She would like for every tree that is removed, it be replaced with three fast growing evergreens. They would like to be able to come to a compromise with the applicant. She urges the Planning Board not to approve this tonight and advise the applicant to come to a compromise with the neighbors.

David Zimpfer, 35 Laird Lane gave a history of the parcel and he feels that it is historical and should be preserved. Hidden Hollow and Laird Lane will be stripped of privacy. Residents will have to sell their properties because of lighting and sound. He read aloud from letters that he submitted to the Town on November 15, 2013, and December 4, 2013, which are a part of the record. He would like the Town to not permit trees to be removed unless this project goes forward. Dense foliage should be provided. He states that fencing won't help. These homeowners will be exposed to garbage, lighting and sound. A neighbor has already put them home up for sale because of all of the sounds and lighting that exist today in the area from the Commercial development. He would like to see the height of the dumpster adjusted for screening. He would like lighting to conform to Town Code as what is there today does not. He is concerned about private roads Hidden Hollow and Laird Lane being used for construction purposes. He would like to see the Town monitor this site for compliance to Code as far as maintenance. He urges the Town to act on the concerns of the neighbors who will be impacted by this development as proposed to preserve the integrity of 6 Laird Lane.

Bruce Austin, 1 Hardwood Hill Road, states that history in this neighborhood is significant. He expressed concerns about commercializing this area and the environment and traffic with this proposal. He would like to see the door frame and tiles be removed from 6 Laird Lane and stored in an appropriate location as this used to be the property of Franz Wilkenhane, who was a ceramist. In 1980 they tried to get this property secured for historical recognition and that attempt failed.

Hilary Guthrie, 9 Pine Needles Drive expresses concern about environmental, historical issues, and increased traffic issues that will affect the existing neighborhood. This is a slow deterioration of the wonderful charm of the Basin. This is not a sensible project for this area. This area is not anything like it was when they first moved in 20 years ago. There is a lot of commercial property with drive-thru's. There is a lot of traffic congestion. She is concerned that they will widen the roads with all of the traffic congestion and that will take away more of the character of the Basin. There is no need to develop this property this way.

Doug Wegman, 9 Pine Needles Drive states that the local community cares about the community and he asks the groups to get together to come up with a solution that will work for everyone.

Mary Jean Pettingill, 9 Cavan Way asks if the drive-thru wasn't grandfathered in on this project and this request came in today what would this Board do now. Once they commercialize this area, they won't get it back over; it will ruin the area. This will have a bad impact on the entire community.

Eugene Miller, 5 Pine Needles Drive states that 35 years ago he was a fiscal advisor for the Town. He just found out about this proposal. He has gone to the Town and submitted a FOIL request and has found that the ability of the Town to deliver information is slow and lacking. He understands that this is a complicated project. He asks if this project is part of a Limited Development District. He has been asking for the boundaries and no one can give him the information. He has reviewed Historic Architecture minutes and there is a Parrone employee on that Board. Mr. Anderson states that the environmental limits are identified on the plans. Mr. Place states that the Town has mapping but it is delineated for every project. Mr. Belaskas states that the district is mapped by the applicant and the Town reviews them. The best mapping is when you go out and do the physical measurements by walking the site. Mr. Miller states that this information is not available for the wetlands as it was re-mapped two months ago in terms of the feet. They want the feet from the edge of the wetlands to the project. Mr. Anderson states that this information is on the plans. The Conservation Board has walked the site and has verified this. The applicant has done a physical survey of the site. Mr. Parrone states that the plans that have been submitted show it exactly where it is.

Linda Baker, 31 Great Oak Lane states that GIS mapping shows this in a different location. Mr. Anderson states that the Conservation Board walks the site and compares it to the proposed site plan and confirms. GIS is not specific. Mr. Parrone states that a professional wetland expert goes out to the site, flags it, and locates it.

Mr. Miller asks if this plan shows the October measurement. Mr. Parrone states yes. There are three parameters that define what a wetland is. The same as the LDD for this particular community. The LDD map that the Town has is an 800 scale that was done in 1980 and has never changed. They have to define it exactly on each project in the Town. Mr. Miller states that years ago there

was a concern about salt on the roads going down into this wetlands area. This wetland area is a treasure. The neighbors are looking to classify this wetland as a Level 1. This project is built as proposed will completely change the nature of the Basin.

There were no further questions or comments from the neighbors.

Mr. Anderson expresses frustration that this project wasn't built the last time it was approved and inquires when it will be built if it is approved. Mr. Parrone states it will be built this year. Ms. Walters is ready to do it this year. He understands that they have to post a letter of credit and the entire project has to be built. There is no phasing. He understands no C of O will be issued until complete. Mr. Parrone states that all of these concerns were heard in 2002 and again in 2006. There are some new residents that have moved into the area now. This project has been going on for over 20 years and the neighbors have known about it. Mr. Parrone states that the applicant does not post the Notice of Application received signs; the Town does. Mr. Anderson states that years ago the applicant posted the signs, and the last few years the Town posts the signs. Mr. Doser states that the signs were posted consistent with the way CED posts and advertises all public hearings for the various Town Boards. A number of the neighbors disagreed.

Mr. Parrone states that in the past there was a stormwater facility that was sub-surface. The Town of Perinton did not really want to have that as there is a lot of maintenance that goes on with that type of facility. They had many meetings with the DPW and the Town Engineer to come up with a solution that would work for the Town of Perinton and the applicant. As far as the additional landscaping and higher fencing, the applicant is willing to work with the Town and neighbors. Mr. Anderson states that with the elevation change, a 6' fence really won't be effective. He asks if the applicant is willing to construct an 8' fence. Mr. Parrone states yes. Mr. Anderson states that he understands that the neighbors want 10', but it has been the experience of the Town that a fence of that height overwhelms the area and is susceptible to falling with wind storms and has a lot of maintenance issues. Mr. Parrone states that if there is additional landscaping the Board wants, the applicant is willing to entertain that. Mr. Anderson states that he would like to see more landscaping. Mr. Anderson asks if the existing lighting will come down. Mr. Parrone states yes. The new ones will be 16' high and cast down and there will be certain isometric requirements met at the property line. They are not proposing any building mounted lights. Mr. Parrone states that they are not willing to give up the drive-thru. It was on the plans in 2002 and 2006 and now again. These proposed buildings are less than 5000 sf each. Mr. Parrone addresses the rumor that there is going to be a Taco Bell. He states that is not true. Mr. Parrone states that this project is not going to be like Henrietta and he takes exception when someone makes a disparaging comment about another Town.

Mr. Anderson asks about snow storage. Mr. Parrone states that they will designate it. It will be predominantly toward the rear or the west where they will stockpile it. They are sensitive to the neighbors and they don't want to lose any more spaces.

Mr. Anderson thanks the neighbors for attending tonight's meeting. The challenge to the Board is balance. There is the desire and the rights of the land owner and the concerns of the neighbors and the interests of the Town. It is a desire of the Town to take this large parcel and develop it as one. There are a number of benefits by reducing the number of curb cuts from 5 to 3. This will improve ingress and egress and improve safety. These buildings are scaled properly for the site. They won't be overwhelming. They are of the size and scope of other buildings in the Basin. The two new buildings will have to go through review by HAC and the Planning Board. The Board will be looking at design elements to complement what exists in the Basin now. They can look to add additional screening to help to mitigate. He understands that the neighbors are concerned about the drive-thru. There was a long discussion on this in 2006 and a lot of technical work was done at that time. Sound was discussed in 2006 and there is a study that identifies the ambient noise level and this can't exceed that. When Tim Horton's was proposed, the neighbors were concerned then, and that site works well. He is prepared to go forward with a number of conditions.

Mr. Lewis states that he likes the Basin. He has been a member of the Bushnell's Basin Fire Department for 34 years. He doesn't feel it is realistic that the Basin be kept historical in the 21<sup>st</sup> century. There won't be a shoemaker or a cobbler here. There are three properties in the Basin that have been well done; Jean Krym's property is one of them. When Tim Horton's put a drive-thru next to that property he objected to it, but it is a sign of the times. Dr. Munnich's home on Kreag Road is another and is as they looked in the 1940's. Richardson's is another. Richardson's buildings were re-furbished. The third building on the site was brought into the site. You cannot expect this applicant to come in and not have a drive-thru; it is the way life is today. You cannot keep Bushnell's Basin the way it was in 1900. There will be 5 small buildings and each one of them needs parking. People don't have horses anymore. The existing buildings are run down to a terrible extent. They are an eyesore. For the longest time the Town hoped that these three buildings could be refurbished as small homes. Nobody would do it and develop them that way. You can't put a small cottage as a living unit on Route 96; the property is worth too much for other things. He has been on this Board for a long time to have, in some small measure, some direction in how Perinton is developed. The Board can only review what is submitted. The law is clear; this is commercial property and can be used for commercial purposes. If they want a Taco Bell here and they could entice one, they could have it; the Town couldn't stop it. He has never heard anything about this site being developed as a Taco Bell from the applicant; only the neighbors. He understands that the neighbors on Laird Lane enjoy the trees and shrubbery that exists today on the Laird Lane property, but it is at the cost of the owner that it has been kept that way for all of these years. Perhaps the neighbors as a group should have tried to buy that lot so that it would remain as is. He is opposed to putting a commercial requirement on a residential lot, but it can be done. The Board thinks vinyl fencing is better because it wears nice and has less maintenance. A wood fence would require a lot more maintenance. The applicant is preserving the church as best as possible. He asks what will happen to it. Mr. Parrone states that if it can't be leased, it may have to be torn down. Mr. Place states he thinks that is a designated building and HAC would have to give permission for that to be torn down. Ms. Walters states that building is 750 sf. Mr. Lewis asks if the applicant has discussed with the Subway owner moving him from one side of the building to the other. Mr. Parrone states that Ms. Walters has talked to him about providing a patio outside for outdoor seating.

Mr. Brasley states that there have been over two dozen public hearings on this project. He has supported this project from the beginning and the reasons for supporting it have not changed. This project does meet the zoning for the neighborhood. The setbacks that are being requested are consistent with other properties in the Basin. It meets green space requirement. The reason that the buildings are closer to the road is that it keeps them farther from the residents behind and out of the wetland. If they didn't have the setbacks it would have to be even closer to the residents. There will be fewer road cuts. The architecture of the buildings are not being approved tonight; that will be a future meeting. The architectural drawings that they have seen are nice and are consistent with the neighborhood. They are wood frame with gable roofs, simple details. He is confident in the Historic

Architecture Commission to make sure they are attractive buildings that fit in the neighborhood. He goes to all of the HAC meetings. He is in favor of the project; it has been studied as much as it can be. He has heard all of the concerns of the neighbors and is not convinced that this project will change the character of the neighborhood in a negative way; it will enhance the character of the neighborhood. He hopes this project goes through as it will help the Basin. He does not believe that the impacts to the neighbors will be as great as they fear. He does not believe that it will lower anyone's property value. The closest houses are hundreds of feet away from the project. The Town only requires 50' of buffer. They are getting hundreds of feet. He is prepared for it to go forward and would like to see it be built quickly. Mr. Kwon disagrees with those numbers.

Mr. O'Brien states that a number of the neighbors have stated that they support development and have also expressed concern with traffic. There is no way to develop this property without effecting traffic. Mr. O'Brien asks how much acreage does the infiltration pond use. Mr. Parrone states it is less than 1/2 acre. Mr. Lewis feels that the wildlife will find a way to survive. Mr. O'Brien states that pressure treated wood has chemicals in it and is not free of chemicals. He states that residential property is not a huge contributor to the tax base; commercial property is a bigger contributor. The proposal before the Town currently is scaled down from the last proposal that was approved that he supported and he supports this one as well.

Mr. Antonelli states that he has been here for the last few approvals. Every time the Town staff, the Conservation Board, and the Town Engineer have done their due diligence. This project has been reviewed thoroughly and he feels it will work. The last proposal had two restaurants and it was approved, and this one has one restaurant. He supports an 8' fence instead of a 6' fence as it offers better screening. The buildings are scaled properly for the Basin. Even if you had seven individual sites, where would you put the parking; you can't redevelop it the way it is without variances. Every single building in every single property in the Basin has some sort of variance. Most of the variances that they are asking for are either pre-existing, non-conforming or are going to make the development better based on what current zoning is. Regarding the Special Use Permit, the Town staff says that it is still valid. He would like to see snow storage shown on plans. As far as clear cutting of the trees, it is a residential lot and Ms. Walters could take down every single tree today if she wants to regardless if there is an infiltration system there or not. There are no deed or Town restrictions and nothing to stop her from taking down all the trees. If the infiltration system goes in here, he would support additional landscaping in this area to help enhance some screening along with the higher fence. He has supported this project for years and he is prepared to go forward tonight.

Ms. Neu states that he is a new member on the Board. She states that she does have several pictures on her phone of NOA signs that were in place when she visited the site. She would like to see some additional landscaping and an 8' fence. Ms. Neu asks if the fencing will be wooden or vinyl. Mr. Parrone states that it will be what the Town wants. Ms. Neu would like to see the snow storage delineated on the plans. Mr. Parrone states that they can coordinate with the DPW for enhanced landscaping; 3 to 1 is too much as there won't be enough room. Ms. Neu asks if the dumpster enclosure can be 8'. Mr. Parrone states that the proposal is for 6'; he would consider 8' if that is what the Town wants. There was a discussion on garbage pickup, and it was determined that it is done early in the morning.

Mr. Anderson asks if there is anything new that anyone in the audience would like to discuss or ask a question about. Ms. Baker states that the applicant does not have a DEC permit at this time. Mr. Anderson states that it is not uncommon and it will have to be obtained. Mr. Parrone states that they cannot start construction without it.

A woman in the audience inquired if there could be a performance bond. Mr. Anderson states that the Town is asking for a letter of credit.

A woman inquired what restaurant is going in here. Mr. Parrone states that they do not have a signed lease at this point. Mr. Anderson states that this can be a sensitive matter and until something is sign, lessors do not want this to be in the public.

A woman inquired if there can be a time limit on the drive-thru to help protect the residents. Mr. Anderson states that both of the buildings have to come back to the Planning Board for site plan approval to deal with the building elevations and they can also address the hours of operation of the drive-thru at that time.

A gentleman states that they are asking the DEC for a public hearing on the wetland. Mr. Knauf states that there is typically not a public hearing as this is not a major project. MR. Parrone states that is up to the DEC.

A gentleman inquires if the applicant plans to use the private roads for construction. Mr. Parrone states that they will not be using Laird Lane at all; everything will come off of Route 96.

A gentleman states that he would like to see a berm built and a fence built on top of the fence.

Mr. Anderson closes the public comment portion of this meeting.

Mr. Anderson states that at the September 18, 2013 Planning Board meeting, the Planning Board made a Negative SEQR Declaration, based on recommendation from the Conservation Board. Mr. Anderson asks the Conservation Board if there has been any change that would impact their recommendation to the Planning Board since that point.

Mr. Belaskas states since approximately December 20, 1995, the project known as Be Walters Retail Development has had several meetings with various Boards, Engineering Firms, and the Public. There have also been numerous correspondences in various forms, as well as response from the State and the County.

The most recent approval for this project was for preliminary site plan, which was approved on September 18, 2013. The Perinton Conservation Board recommended a negative SEQR for the project at the September 18, 2013 Planning Board meeting. Subsequent to the September 18, 2013 meeting, the applicant made minor changes to its storm water management plan.

The Perinton Conservation Board believes that the changes are not substantive and that there is no need to make a new determination of significance.

Mr. Anderson made a motion, based on the Conservation Board's comments, and after due consideration, that the changes to the plan that was approved at preliminary are not substantive and there is no need to make a new determination of significance.

Mr. O'Brien seconds the motion.

Motion carries 6 – 0.

Mr. Anderson made a motion to grant final site plan approval for Be Walters Retail Development for properties located at:

721 Pittsford-Victor Road - 179.10-1-44

725 Pittsford-Victor Road - 179.10-1.43;

735 Pittsford-Victor Road- 179.10-1.42;

741 Pittsford-Victor Road - 179.10-1.41;

747 Pittsford-Victor Road - 179.10-1.40;

751 Pittsford-Victor Road - 179.10-1.39;

6 Laird Lane - 179.10-1.45,

for the conversion of the single family residence at 721 Pittsford Victor Road to office space, the existing Subway building to remain unchanged, the church building to be lowered with a rear addition to facilitate handicap access to the building, construction of a 2,577 s.f. restaurant facility with a pick-up window and seasonal outdoor seating area for 9 patrons, and construction of a 2,740 s.f. building for office/retail use, for plans received by the Town on 11/7/2013, subject to the following conditions:

1. Satisfaction of any remaining concerns of the DPW.
2. A letter of credit for all site improvements is required.
3. All site work is to be completed prior to issuance of a Certificate of Occupancy.
4. Building 1 and Building 2 architectural elevations require approval by HAC and the Planning Board, with the hours of operation for the drive-thru addressed by the Planning Board at that time.
5. The applicant is to extend the curb line behind the Subway and reconfigure parking spaces.
6. The applicant is to obtain necessary variances from the ZBA.
7. All conditions of the October 26, 2006 drive-thru Special Use Permit that was issued by the ZBA remain in force and are to be identified on the final plan, and specifically that the noise generated by the menu board and drive-thru will not exceed the ambient sound level at the property line for Lot 1, consistent with the sound study outlined in a letter from Parrone Engineering dated 11/16/2006.
8. Applicant to obtain any additional Certificate of Appropriateness required from HAC.
9. Applicant to show on final plans the conditions of both of the 10/8/13 Certificate of Appropriateness - Certificate Number 07-2013 & Certificate Number 08-2013.
10. Applicant to file an administrative subdivision map, that combines all existing parcels into one single parcel, and recorded in the Monroe County Clerk's Office prior to Town Officials signing the project Site Plan.
11. Building 2 to be labeled as Commercial Retail.
12. The entire fence is to be 8' in height, solid vinyl, in an earth tone color.
13. The retaining wall is to have a maximum height of 8'.
14. Light fixtures are to have a maximum height of 16' from grade to the highest point.
15. Existing light fixtures are to be removed.
16. Landscaping in the buffer area is to be enhanced by the applicant in the following manner: the applicant shall provide two times the number of trees that were proposed and shown on the previous plans dated 11/7/13. The intent of this requirement is to improve the screening and shielding of the proposed development for neighboring properties.
17. The applicant is to obtain any necessary DEC permits.
18. Snow storage is to be identified on the plans.
19. Plan for storing snow be reviewed and approved by the Commissioner of DPW.
20. All signage is a separate application.
21. Applicant will not use Laird Lane or Hidden Hollow for access to the site for construction purposes.

Mr. Brasley seconds the motion.

There was a discussion if the fencing was to be vinyl or wood, and Mr. Anderson and Mr. Brasley state vinyl. Mr. Anderson feels that wood fencing will deteriorate in a few years and could become an eyesore. The Town has had better experience with vinyl fencing as it wears better and has less maintenance. There was a discussion that Laird Lane and Hidden Hollow not be used for construction purposes, but may be used for maintenance purposes.

Motion carries 6 – 0.

Mr. Anderson states that he appreciates the neighbor's comments. This has been an emotional project for years, and the Town has tried to balance some of the concerns of the neighbors with the rights of the developer.

**Discussion(s):**

**4th - 90 day extension - Magnolia Manor Subdivision – Section 4 (fka Packard-Waymon subdivision)  
(extension to run from 1/15/14 – 4/15/2014)**

Mr. Anderson states that Mr. Antonelli had to leave the meeting, so they are now down to five Board members

Mr. Anderson states that BME has requested an additional extension as per letter of intent as shown below:

# BME ASSOCIATES

ENGINEERS • SURVEYORS • LANDSCAPE ARCHITECTS

January 8, 2014

Planning Board  
Town of Perinton  
1350 Turk Hill Road  
Fairport, NY 14450



Attn: Lori Stid

**Re: Magnolia Manor, Section 4**

**2177E**

Dear Board Members:

On behalf of Metrose Builders, we are requesting an additional 90-day extension for the Final Subdivision approval for Magnolia Manor, Section 4; originally granted by the Planning Board on October 3, 2012. The current 90-day extension, which was granted by the Planning Board on October 16, 2013, is valid through January 15, 2014. Per request from the Town of Perinton DPW, the first phase of Section 2 construction was to be completed prior to obtaining Town signatures on the Section 4 plans, and prior to the start of Section 4 construction. The 90-day extension is required due to the timing of the Section 2 construction. The first phase of Section 2 is now complete, and Metrose Builders intends to obtain the necessary Town signatures and begin construction on Section 4 in 2014. There have been no changes to the lot layout from the plan that was previously reviewed and approved by the Planning Board.

If you have any questions, please contact our office.

Sincerely,  
BME ASSOCIATES

Ryan T. Destro

/RTD

c: Metrose Builders

Mr. Lewis made a motion to grant a 90 day extension with extension to run from 1/15/14 to 4/16/14, as the 15<sup>th</sup> of April is on a Tuesday, and the Board would not meet again anyways until the next day.

Mr. Brasley seconds the motion.

Mr. Lewis expressed concern about all of these extensions. Mr. Beck states that he is meeting with them tomorrow and this should be starting soon.

Motion carries 5 - 0

## Recommendation to Town Board

**Whitney Town Center, LLC.** Special Use Permit to develop senior housing under public buildings and grounds overlay district. Project is on the north side of Whitney Road, approximately 0.1 miles east of O'Connor Road.

Matt Newcomb, Marathon Engineering presented the application to the Board. With him is Jim Taylor, the developer and John Stapleton, also from Marathon Engineering. He described the location of the project, which is 666 Whitney Road and an undeveloped parcel. There are two wetlands on the undeveloped parcel. These wetlands were delineated in March 2009. The Army Corp made a jurisdictional determination in July 2010. This jurisdictional determination is valid until July, 2015 for the location of the wetlands. They met with the Conservation Board last night who was inquiring about this. The property is zoned Industrial. They made application back in 2009 for an Industrial development and since then they have had some ongoing

discussions with the Town. The Town has a mixed use plan for this area. For 666 Whitney Road, they are looking at perhaps some professional or medical offices, coffee, florist, eye glasses, etc. The other parcel will be three buildings that will be for senior living. The largest building will have 59 units, the building to the east will have 53 units and the building to the north will have 39 units. All will have adequate parking and they are proposing some car ports or garages. They are proposing a gazebo near the stormwater management facility. They will meet all NYS requirements for stormwater management.

Mr. Anderson asked the Conservation Board if they had any comments that the Planning Board should know about. Mr. Belaskas states that this project is a scaled down plan from what was originally proposed a number of years ago. The impact to the wetlands has been reduced. The wetland impact will be less than one acre for the road, and that is an allowed use in the Code because it is a residential development. They are keeping the development away as much as they can from the neighboring homes. They are re-using the frontier building as a redevelopment which is a good thing. The applicant has worked hard to address the concerns of the neighbors by moving the buildings and reducing the heights.

Mr. Anderson asked for questions or comments from CED, and there were none.

Mr. Anderson asked for questions or comments from DPW. Mr. Kozarits states that if this moved forward, they will be focusing on stormwater, hydrology and have already informed the applicant that a traffic study will be required.

Mr. Beck states that he has nothing additional.

Mr. Anderson asked for questions or comments from Attorney Place. Mr. Place states that he would like to see elevations of the buildings on both sides.

Mr. Anderson asked for questions or comments from the audience. Judith McNulty, 647 Thayer Road inquires how many stories the buildings are proposed to be. The applicant states that the front two buildings are three story buildings and the rear building is two stories. Ms. McNulty asked how high the three story building is proposed to be and the applicant states less than 40'. Ms. McNulty expresses concern about all of the proposed senior housing in Perinton.

Donna Mills, 95 Lonesome Road, states that Mr. Taylor has been gracious. She is concerned about encroachment into the wetlands. She understands that the building is not in the wetlands, but there is still an encroachment into the wetlands. She expresses concern about what will happen to the wildlife that they currently enjoy now. She is concerned about the walking trail and what type of people it will attract walking close to their homes. She feels that there should not be any development at all in the wetlands and the first two buildings should be made taller so that the third structure can go away and keep this land forever wild. She would like the Town to allow the applicant an area variance for height variance and keep the wetland forever wild. Mr. Anderson asks if this request went before the Town Board. She states that they brought this idea up with Jim Smith; not the Town Board.

Mr. Anderson states that this land is developable. Mr. Taylor states that there will be impacts of the higher building to the Whitney Road neighbors. Parking will be an issue. Mr. Place states that the Town has been reluctant to give height variances. Mr. Anderson states there has already been neighborhood opposition to a different three-story project being proposed in Perinton already. Mr. Anderson states that the neighbors should bring this idea up at a Town Board meeting if Mr. Taylor would consider it. Mr. Place asks if the issue for development in this area is visual. Ms. Mills states that the neighbors do not want this area developed.

Beth Wheeler, 31 Fairvale, states that she purchased her home for the enjoyment of the wetlands. She felt that this land would be forever wild. She feels that just because Mr. Taylor owns the land; it should not mean he gets to develop it. He needs to be responsible. She objects to the trails being proposed as they are a violation of privacy. She is concerned about drug deals in the area.

Brian Griffin, 51 Braeloch, states that the neighbors have tried to work with Mr. Taylor over the years and understand that this land will be developed. He expresses concern about how wet the wetlands are.

John Engle, 43 Fairvale, states that the path that is proposed is going to cross the wetland four times.

The Board discussed the proposal and gave unanimous support of the Special Use permit application. The key points in support of the application include:

- The lot is currently zoned Industrial and abuts residential to the North, East, and a portion to the West. Mixed use would be less intense, more complimentary to these adjoining uses, and is consistent with the Town's intent to rezone portions of this area of Town to mixed use zoning.
- Provides additional housing options for the growing senior community within the Town.
- The project will renovate an existing, long vacant building to retail / professional office space which would provide enhanced services to both the senior housing and general area.
- The development proposes extensive walking trails to encourage exercise and healthy living for its residents. However, there is currently a lack of pedestrian access from the site. The Town should seek to improve such access as the area evolves to a mixed use district.

Two of the proposed buildings are identified as three stories and the Town Board may wish to consider a height limitation. While the proposal does infringe on wet LDD, the Board feels it is very minimal, and the applicant is offering mitigation for the disturbance. A number of residents expressed concerns regarding the rear building's impact on the wetlands, wildlife and adjoining neighbors. The Board felt these could be adequately addressed during Site Plan, and encouraged the neighbors to continue participating in the process.

This project will address the growing need for senior housing in the community, and provide needed new development along the Whitney Road corridor consistent with the goals of mixed use rezoning

**ZBA – 1/27/14**

The Board discussed the agenda and will write written comments to the ZBA regarding proposed Be Walters Retail project.

**Minutes – 12/4/13**

Mr. Brasley made a motion to approve the minutes of 12/4/13, as amended.

Mr. Lewis seconds the motion.

Motion carries 5 – 0.

There being no further business before the Board, the meeting adjourned at 11:10 PM.

Respectfully Submitted,

Lori L. Stid, Clerk