

**Members Present:**

David Woods, Chair  
Dori Farthing  
Matt Griffo  
Claren Kruppner  
Susan Richardson

**Other Village Representatives Present:**

Code Enforcement Officer, Ron Maxwell  
MRB Group Engineer, Kurt Rappazzo  
Village Attorney, J. Thomas Reynolds  
Village Streets Superintendent, Jason Frazier  
Livingston County Planning Board Representative,  
Stewart Leffler

**Public Present:**

Howard Appell, Livingston County News

Chair David Woods opened the special meeting at 4:30pm, noting that all necessary notifications were made regarding the special meeting which was being held for the purpose of discussion the McDonald's Restaurant located at 4162 Lakeville Road. McDonald's would like to open as soon as possible. Chair Woods explained that there are at least two items that need to be acted on by the Planning Board before any type of Certificate of Occupancy can be issued. One being the yellow drive-thru canopies and the other being the elevation of the sidewalk along the front of the property.

Chair Woods stated that the yellow drive-thru canopies were installed and are on the signed site plan even though the Planning board had thought they would not be. Attorney Reynolds continued by stating that he has been able to negotiate an agreement with McDonald's USA, LLC to change the color of the canopies to Cityscape Gray by Metal Era to match the building.

They have also agreed to remove the sidewalk along the front of the property and install a new one to match that of what will be safe for pedestrians and the Village. Along with this, the pedestrian access between the parking lot and sidewalk will be moved to the northwest corner of the parking lot.

Attorney Reynolds stated that McDonald's agreed to an escrow agreement with the Village in the amount of \$7500 which has already been received by the Village. According to Village Streets Superintendent Jason Frazier, this is an accurate amount to cover the cost of replacing the sidewalk.

The Board wondered if the color of the drive-thru canopies would truly be gray and not that silvery color. Attorney Reynolds noted that Exhibit B as contained in the Escrow Agreement states that the drive-thru canopies are to be painted Cityscape Gray by Metal Era, to match the building.

M. Griffo asked where the elevation of the sidewalk would end up when completed. J. Frazier stated that it will be approximately 1.6' higher than the curb on the street, therefore coming down approximately 2.6' from where it is currently located. Chair Woods stated that within the Planning Board's site plan review we never looked at the elevation of the sidewalk, just made sure there was one there which would be dedicated to the Village per Code requirements.

M. Griffo stated that the parking lot light in the area where the sidewalk is to be replaced seems much further out of the ground than what he had expected and asked if the elevations/grades that are there now is what was approved. MRB Group Engineer Kurt Rappazzo stated that without doing a survey of the property, the elevations/grades appear to be correct. M. Griffo commented that he did not think the site would be that high. C. Kruppner stated that he recently had reviewed the signed site plan and the building appears to be located at the same elevation/grade of the previous site. Engineer Rappazzo stated that the new building is placed more towards the front of the lot than the previous one and that may be why it appears higher.

M. Griffo asked what material would be used to transition between the curb and sidewalk. J. Frazier stated that grass would be planted in that area. S. Richardson noted that she believes the Planning Board concentrated more on the placement of the rear driveway than the front driveway,

therefore not realizing what the difference would be with a sidewalk out front. Chair Woods also noted that because there was not a sidewalk there before, there was nothing for the Planning Board to visualize.

J. Frazier stated that he is also requesting that some type of permanent barricade be placed at the end of the sidewalk along the east property line. He continued by stating that because the sidewalk does not continue east along Route 20A with a ditch there and no sidewalk something permanent needs to be placed there to deter pedestrians, noting that a couple of two by fours would not work. Attorney Reynolds stated that everyone is aware that at this time the sidewalk does not go anywhere, but the Village plans to extend the sidewalk along the south side of Route 20A from Reservoir Road to Wegmans and has applied for a grant to assist with this. Attorney Reynolds noted that this may not happen immediately therefore believes installing some type of permanent barrier for safety reasons will be acceptable to McDonald's.

Engineer Rappazzo asked that when the sidewalk is replaced, the pedestrian access between the sidewalk and parking lot be relocated to the northwest parking stall and the striping of the parking lot should also be relocated to indicate this. D. Farthing asked Engineer Rappazzo if replacing the sidewalk and pedestrian access would have any affect on the stormwater management plan. Engineer Rappazzo explained that there is currently no drainage coming off of the parking lot and none is expected to when the sidewalk and pedestrian access is relocated.

M. Griffo asked if there were any other outstanding items that were not adhered to. Engineer Rappazzo stated that there is a stormwater quality unit in the northeast corner of the property that looks like it may be undersized; two man holes have been installed instead of one. The Board wondered if this needed to be apart of the escrow agreement. Attorney Reynolds stated that he did not believe it did because the site plan has the correct one on it and CEO Maxwell stated that the SPDES – State Pollutant Discharge Elimination Permit would also have this information.

Chair Woods asked if there were any other questions. M. Griffo asked if there was a complete list of outstanding items that have not been adhered to besides the ones already discussed. Asking if the yellow canopies were specifically made for the Geneseo site and wondered why they couldn't just be taken down. Attorney Reynolds explained that the only thing on the table at this time is the color change of the canopies and replacement of the sidewalk. M. Griffo wondered why taking them down was not on the table. Attorney Reynolds stated that the canopies were on the signed site plan. Engineer Rappazzo explained that they are more than canopies; they have lights and cameras in them that assist with orders. M. Griffo wondered why we could not negotiate more with McDonald's representatives to have them removed. Attorney Reynolds explained that because they are on the signed site plan, there was not much he could do.

D. Farthing asked if the final signed site plan included a light footprint that was associated with the drive-thru canopies. Engineer Rappazzo was not sure but believed the lights in the canopies are to assist with reading the menu boards and for safety reasons. D. Farthing stated that she is concerned that the lights in these canopies might be an annoyance to some of the neighbors along Reservoir Road. S. Richardson stated that she did not realize that the canopies has cameras in them, but did remember Mr. Bebout from TY Lin International stating that they would remove them from the site plan if they could not be yellow. Attorney Reynolds stated that he believed they also stated something about the canopies shielding patrons from the weather.

M. Griffo stated that there is not a drive-thru in town that is covered and that they do catch your eye. M. Griffo asked if they had agreed to no canopies which is clearly stated in the minutes, why won't the minutes backup the Planning Board. Attorney Reynolds stated that the signed site plan which was approved by the Planning Board contains the canopies, therefore believes that the minutes where the canopies were discussed would not be proof enough. M. Griffo stated that he truly believes that there is plenty of evidence to show what the Planning Board's intention was. However, Attorney Reynolds argued that the signed site plan is what would be looked at and there was lots of back and forth discussion with Mr. Bebout and the Planning Board.

M. Griffo stated that there are also lights installed on the roof elements which they said would not be there. Attorney Reynolds stated that he was not aware of this. M. Griffo stated that there is also an extra roof element. Attorney Reynolds stated that if these items are not on the signed site plan or approved building plans, then they would be in violation. Chair Woods stated that he is very aware of the inconsistencies in what was signed off on and what the Planning Board had thought they had approved. S. Richardson also noted that there was the McDonald's "M" on the west side of the building that she did not think was going to be there. CEO Maxwell stated that this "M" was apart of the Zoning Board of Appeals approval. M. Griffo stated that the rooftop units come up over the top of the building, which the Planning Board was assured, would not happen and believes that some of these items could be used as leverage to have the canopies removed. Attorney Reynolds stated that if this went to a judge, the judge would quickly note the inconsistencies between the signed site plan and minutes.

M. Griffo stated that his main concern is that a precedent will be set and that he wonders why a fully functional Board with minutes would not be able to argue or negotiate items such as these. M. Griffo realizes that an error was made, but wonders if there is room to negotiate and if this were to go to Court what would be the Village's liability and would the Village have to pay their fees. Attorney Reynolds stated that he has seen cases in the past where this has happened. Attorney Reynolds continued by stating that every day they are not open they are losing part of their customer base and that employees have been out of work since they closed. M. Griffo stated that he does not have a problem with issuing them a Temporary Certificate of Occupancy so that they can open, but would like them to adhere to what was approved. M. Griffo stated that it would be interesting to see what the Engineer would say if he were here. Attorney Reynolds stated that the Engineer does not have the say; he has been in direct communication with McDonald's USA attorneys in Pittsburgh, Pennsylvania and other parts of the country.

The Board wondered if the "Order Here" bar under the canopies would also be painted gray. CEO Maxwell stated that he believes that they will be gray. However, it was noted on the rendering submitted only the canopies themselves would be painted. The Board also asked where the lighting would be in the canopies. CEO Maxwell stated that the lighting is built into the canopy, therefore is not recessed lighting. The Board was concerned that they do not know the brightness of the lighting and the overall affect on the area.

S. Richardson stated that from her point of view some of these items were put on the plans and installed on site purposely. However, from the public's point of view, people will not even notice the canopies once their eyes get used to them. M. Griffo stated that he believes the Board needs to be mindful when the next applicant comes in to make sure they understand that this is not an accepted practice.

Chair Woods stated that much more scrutiny needs to happen when the site plans are signed. He continued by stated that he has held back from the discussion thus far, but he does not want to leave the impression that he is happy with what has occurred and what the last week has brought, but believes the tentative resolution is realistically the best one the Village could hope for. Chair Woods also stated that he had received a comment about the building looking better than one had expected it to look.

C. Kruppner stated that he does agree that things did get shifted around or missed, but agrees with Attorney Reynolds in that he is not sure what else we can do as a Board. S. Richardson noted that life is about compromise. M. Griffo stated that he understood this, but would really like to see a complete list of items that have not been adhered to like the lights and rooftop units.

At this time, Attorney Reynolds phoned Paul Rubenstein from McDonald's USA, LLC to discuss the permanent barrier which the Department of Public Works would like installed at the east end of the sidewalk, the replacement of the connecting sidewalk and associated striped pedestrian access and clarification that the "Order Here" bar underneath the canopies will also be painted Cityscape Gray.

D. Farthing stated that while Attorney Reynolds was on the phone with Mr. Rubenstein, she and Engineer Rappazzo reviewed the sign package from Everbrite, LLC submitted to the Board on March 27<sup>th</sup> and approved by the Board on the same night that the intensity of the lights underneath the canopies will be a fluorescent light with very low wattage.

Attorney Reynolds stated that Mr. Rubenstein has agreed to the terms as stated above, will work with J. Frazier on the permanent barrier and will have the canopy rendering corrected to note that the "order here" bar will also be painted Cityscape Gray.

M. Griffo asked if the temporary certificate of occupancy had been issued yet. CEO Maxwell stated that it had not. M. Griffo wondered if that was the urgency of this meeting. Attorney Reynolds stated that it was because of the issue of the sidewalk and the color of the canopies. M. Griffo wondered if the Board would be tying their hands tonight if they went ahead and approved the draft resolution as presented. Attorney Reynolds stated that he believed that before the temporary certificate of occupancy could be issued, these items needed to be worked out. M. Griffo stated that he did not have a problem with CEO Maxwell issuing the temporary certificate of occupancy, but would like the Board to go back and look at what was agreed to and what was on the final site plan.

Chair Woods asked if anyone would like to make a motion to approve the resolution.

D. Farthing offered the following resolution with second from S. Richardson:

**A decision and resolution in connection with an application submitted by T.Y. Lin International, on behalf of McDonald's USA, LLC and Joe Ferrino, Franchise Owner for site plan approval for the redevelopment of the McDonald's restaurant including demolition of the entire site and construction of a new approximately 3,911 square foot restaurant and associated site features including dumpster enclosure/shed, side-by-side drive-thru, asphalt parking, utilities, landscaping, lighting and sign at 4162 Lakeville Road, Village of Geneseo, Tax Map #: 81.14-1-4.2 was made on March 27, 2013, and a Final Site Plan was filed in May, 2013.**

WHEREAS, the Applicant has requested a minor Amendment in said site plan to change the shape and colors of the drive-thru canopies, as set forth in the sign package contained in the approving Resolution (Paragraph 9); and

WHEREAS, a Public Meeting to consider the request was held on October 3, 2013; and

WHEREAS, the specifics for the change is set forth in the attached exhibits, which also include sidewalk elevation changes required by the Village of Geneseo DPW; and

NOW THEREFORE, be it resolved that the McDonald's Geneseo, requested amendment to the

site plan is granted with the following conditions:

1. The "Order Here" bar underneath the drive-thru canopies also be painted Cityscape Gray, to match building and said exhibit as attached be changed to reflect this.
2. The striped pedestrian walkway from the connecting sidewalk to the building be relocated to the northwest corner of the parking lot next to the relocated walkway.
3. A permanent barrier shall be installed at the east end of the sidewalk along Route 20A which is satisfactory to the Village DPW.
4. That the storm water quality management unit in the northeast corner of the property shall meet the standard set forth in the site plan.
5. The landscaping plan as approved shall be completed.
6. That the signed site plan and all other stipulations made by the applicant to the Planning Board be adhered to.

Chair Woods asked if there was any discussion. M. Griffo stated that it is important that the sidewalk will be replaced, that he does not have a problem with the temporary certificate of occupancy being issued, but a complete list of all inaccuracies should be complied prior to moving forward. S. Richardson asked if the temporary certificate of occupancy could be issued without approving this resolution. Attorney Reynolds advised that a motion was before the Board that had been moved and seconded, therefore a vote must be taken. CEO Maxwell suggested that the Board meet in a work session to compare the minutes to the signed site plan. M. Griffo stated that he believes if the Board

knew the whole picture, they could possibly negotiate with them. D. Farthing and C. Kruppner stated that they believed the issue of the canopies was a done deal. Chair Woods asked for a vote.

The vote was as follows: David O. Woods, Chair - Aye, Matthew W. Griffo, Member - Nay, Susan B. Richardson, Member - Aye, Dori Farthing, Member – Aye and Claren Kruppner - Aye.

The motion passed 4 to 1.

M. Griffo asked if the next regularly scheduled meeting is Wednesday, October 23<sup>rd</sup>. Chair Woods stated that it was. C. Kruppner stated that he could go through the minutes. D. Farthing stated that the minutes would be key, but that they would not hold up to what was on the signed site plan or final building plans.

Chair Woods asked if there was any other business to discuss. Livingston County News Representative Howard Appell asked who would be issuing the certificate of occupancy and when would it expire. CEO Maxwell stated that his office would and that the date of expiration would coincide with the date listed in the escrow agreement, which is January 2, 2014.

With no further discussion, M. Griffo moved to close the meeting at 5:37PM with second from C. Kruppner, the motion passed with ayes from all.

Aprile S. Mack, Secretary