

**MINUTES**  
**REGULAR MEETING OF THE BUTLER PLANNING BOARD**  
**APRIL 18, 2024**

Chairman Nargiso brought the regular meeting of the Butler Planning Board to order for April 18, 2024. The Chairman stated this meeting is being held in conformance with the Sunshine Law Requirements having been duly advertised and posted at Borough Hall.

**ROLL CALL:**

Present: Donza, Reger, Brown, Vath, Hough, Nargiso  
Absent: Roche, Piccirillo, Veneziano, Matinez, Finelli (all excused)  
Also present: John Barbarula, Attorney; Tom Boorady, Engineer

**CORRESPONDENCE:** None

**CASES TO BE HEARD:**

24-001	Robert Podstawski	Detached Garage
B.O.A.	24 High Street	
	Block: 14 Lot: 4	

Motion to dismiss without prejudice for improper notice: Vath Second: Brown  
Ayes: Donza, Reger, Brown, Vath, Hough, Nargiso

SP22-83	QQR, LLC	Site Plan
B.O.A.	1558 Route 23	
	Block: 201 Lot: 2.04	

Withdrawn due to improper notice. Will re-notice for the May 16 meeting

AP4-24	Future Elevations, LLC	Appeal Zoning Officer Decision
	1610 Route 23	
	Block: 101 Lot: 5.04	

John Ambrosio, Esq. is representing the applicant. Mr. Ambrosio testified that the notices were sent by lawyer delivery service on the 15th of April and were delivered on the 16th. He has a signature of the person who received it. He can get us a copy of that signature on Friday since it is available on line.

Mr. Barbarula determined that no resolution will be issued until the original notices are provided to the Board or proof that they were delivered on time and proven to be lost.

One of the owners of Future Elevations, LLC was introduced and sworn in. Damien Wesler, Jr. 39 Upper Lakeview Ave., Ringwood.

Mr. Ambrosio stated that he requested the documents the zoning officer used to deny the CCO application.

Mr. Wesler applied for the CCO on March 13, 2024 for a retail store selling smoke shop products and hemp. None of the products are illegal. No intention of selling cannabis products.

CCO was denied because it is not permitted by ordinance.

One employee working at the store at any given time.

Hours from 7 am to 11 pm

Two buildings on site.

Not aware of the number of parking spaces.

Size of the store is 850 square feet.

The other commercial tenant is a Psychic Reader

Operating a convenience store and similar products they are planning to sell.

2 parking spaces immediately in front of the store and five or six behind the store.

Mr. Ambrosio stated that his client's use is a retail use and does not require site plan approval in the HC zone. Selling tobacco and hemp related products. Schedule C allows a retail store

Mr. Wesler states he has a license from the state to sell tobacco.

Open to the public.

Seeing no one coming forward a motion to close public portion: Brown Second: Vath All in favor

Zoning Officer William Budesheim was sworn in.

Advised Mr. Ambrosio on the phone that no documents were used to make the decision to deny the application.

On January 30th the applicant appeared in municipal court and was found guilty of operating without a CCO. A week later Future Elevations officer applied for a CCO for a convenience center/smoke shop for the location from which they were just evicted. That application was exactly the same as the one for Dirty Jerzy.

The denial read: "The increased impact on this site requires Planning Board approval. Full site plan approval is required." This has been done on previous occasions for other applications. It is within the jurisdiction of the zoning officer to make that decision.

Open to the public

Seeing no one coming forward motion to Close public portion: Brown Second: Vath All in favor.

Mr. Barbarula stated the Board could make one of three decisions:

1. The zoning officer was incorrect and he should issue the CCO.
2. The zoning officer was correct and cannot issue a CCO without Board approval.
3. The CCO can be issued but not before all the illegal activity is removed from the site as the site is not in compliance with current ordinances

These are the only three choices the Board has.

Chairman Nargiso stated: To clean up the property, describe the items to be sold, want to see the applicant to come back to the Board. Mr. Barbarula reminded the Board that it has no enforcement powers.

Motion: The Zoning Officer's decision is modified in part. That the site is not in compliance with local Butler ordinances. Until it is, the CCO will be withheld. Once it is deemed to be in compliance with local ordinances it is to be issued. *[Based on an inquiry by the applicant's attorney, Mr. Barbarula stated that the Chair's motion does not require them to come before the Board What the Chair's motion requires is that until Future Elevations LLC can actually occupy the premises with the CCO the site has to come into compliance....It has to become a compliant site. And until it becomes compliant no CCO will be issued. That's the motion.]*

Mr. Brown requests to amend the motion to include the list of products in the retail store they are going to sell. The chairman stated that it's impossible to police. Clean up the property, describe the products they are going to sell and once that is completed and approved by this Board. So that means I would want to see you come back with those documents that maybe the landlord would provide you or with your landlord.

Mr. Barbarula. The motion is: That the zoning officer's decision is modified in part. That the site is not currently in compliance with local Butler ordinances. Until it is, the CCO will be withheld. Once it is deemed to be in compliance a CCO will be issued for this application. It is also subject to the applicant giving a detailed listing of what is to be sold and offered at the subject property.

Motion: Nargiso Second: Brown

Ayes: Donza, Brown, Reger, Hough, Vath, Nargiso

**RESOLUTIONS:** Wade & Cynthia Montena 24-002  
14 Gormley Lane  
Block 74 Lot 10  
Motion to accept: Brown Second: Vath  
Ayes: Donza, Vath, Brown, Nargiso

**APPROVAL OF MINUTES:**

February 15, 2024  
Motion: Brown Second: Donza Ayes: Donza, Brown, Reger, Hough, Vath, Nargiso

March 21, 2024  
Motion: Brown Second: Vath Ayes: Donza, Brown, Hough, Vath, Nargiso

April 11, 2024  
Motion: Brown Second: Vath Ayes: Donza, Brown, Vath, Hough, Reger

**APPROVAL OF VOUCHERS** - Voucher 24-04

Motion to approve: Donza Second: Brown  
Ayes: Donza, Reger, Brown, Vath, Hough, Nargiso

**ADJOURNMENT:** 9:15 pm.

Motion: Finelli Second: Veneziano All in favor

**Workshop Meeting May 9, 2024 at 7:30 PM**  
**Next Regular Meeting May 16, 2024 at 7:30 PM**

Approved: May 16, 2024

  
Chairman