

TOWN OF MILAN PLANNING BOARD MEETING MINUTES - FINAL  
WEDNESDAY, MAY 1, 2013

MEMBERS PRESENT:

Joan Wyant, Chairman  
Jeffrey Anagnos  
James Jeffreys  
Kim Koehler  
John Mautone

MEMBERS ABSENT:

Charles Godfrey  
Radford West

ALSO PRESENT:

Jack Campisi, Town Board Liaison

Chairman Wyant called the meeting to order at 7:00 p.m.

**Public Hearings:**

1. **Chestnut Mart of Milan** – Chris Gent, Construction Manager, appeared on behalf of CPD Energy for the public hearing for the Chestnut Mart of Milan Site Plan/Special Use Permit application on property located at 1445 Route 199, tax grid number 6570-00-536267. Chairman Wyant read the legal notice that was published in the paper and sent to neighboring landowners. Mr. Gent submitted a letter from the DEC dated May 1, 2013 approving closure of the monitoring well, stating no further action is required. Mr. Gent displayed a rendering of the proposed site. He said that Mobile has changed their sign configuration so Chestnut Mart will have to go back to the ZBA to amend their sign variance. The variance they received allows a sign 15'11". With the new regulations passed by Dutchess County, both cash and credit prices have to be displayed. The square footage of the sign will remain the same but the height will go up to 17 feet. Mr. Gent said they will try to make it fit but will more than likely need to come in for that variance. They took pictures today in Gardiner, New York of a building in progress that shows the actual color of the proposed building, the glass, the white trim, and the Heather Moss hardy board. They are doing conventional shingles in weathered wood. Mr. Gent also had pictures of the inside of the store. He said the Gardiner store has roughly the same square footage as what is being proposed here. Every light on the site will be LED which can be turned up or down. Lauren Kingman, a resident, asked about the canopy design. Mr. Gent said it is a mansard canopy with roof shingles to match the building. All of the fire suppression will be hidden; there will be nothing hanging down. The canopy is flush across the bottom with LED lights. It is 14'6" and will be all the same height all across. Mr. Gent pointed out that the addition of the drive through has increased the green space on the site, they have increased the waste refuse area to three bins, and decreased the diesel area to two tanks instead of three. Mr. Paggi added that they reversed the direction the tanks will fill which improved traffic flow and they can fill from both sides. When asked, Mr. Gent said at this point, he does not know who is going to lease the lease space yet. Mr. Kingman asked how many parking spaces were on the site and Mr. Gent said they have 41, the

requirement is 37. David Koepp, a Town resident, asked about the proposed car wash and Mr. Gent said that is no longer part of this plan; the car wash has been eliminated. Hearing no further comments, Chairman Wyant motioned to close the public hearing. Mr. Mautone seconded.

Chairman Wyant	Aye	Kim Koehler	Aye
Jeffrey Anagnos	Aye	John Mautone	Aye
Charles Godfrey	Absent	Radford West	Absent
James Jeffreys	Aye		

Motion carried 5-0.

Chairman Wyant motioned that the Town of Milan Planning Board re-approve the negative declaration for the Chestnut Mart Site Plan/Special Use Permit application for property located at 1445 Route 199, tax grid number 6570-00-536267;

WHEREAS, the project involves the construction of new 2,475 SF convenience store including a drive-thru window with queuing capacity of 22±cars to Route 199, and 2,475 SF of lease space, 12 gasoline fueling stations, 2 diesel fueling stations, 41 parking spaces and related site amenities on a site that was previously used as a gasoline fueling station, auto junkyard, and auto repair facility; and

WHEREAS, the previous station was destroyed by fire and was demolished and removed, and the auto junkyard use ceased and vehicles were removed from the site, which is now primarily vacant; and

WHEREAS, the new facility will require the drilling of a new groundwater well and installation of a new subsurface sewage disposal system; and

WHEREAS, the site is located on NYS Route 199 in close proximity to the Taconic State Parkway, a State Scenic Byway that is designated on the National Register of Historic Places; and

WHEREAS the site is located in a rural residential area and contains a portion of New York State Protected Freshwater Wetland RC-13 and a portion of the 100' wetland adjacent area; and

WHEREAS, the Board agreed, on December 6, 2007 to table a vote on the PosDec with the understanding that the applicant would address issues brought forth by the Board and its consultants that were enumerated in a letter to the property owner from the Board dated December 6<sup>th</sup>, 2007; and

WHEREAS, on August 27<sup>th</sup>, 2009, the Board, after discussion with the applicant and its consultants on the current status of the application, which has been revised in a number of areas in response to comments from the Board, its consultants and the various involved agencies, agree that the applicant has made significant

progress on many of the substantive issues that were of concern to the Board, such that the issuance of a Positive Declaration may no longer be warranted; and

WHEREAS, the Board, in bringing the previously offered Positive Declaration to a vote, took into consideration a number of items that are now a part of the record before the Board; and

WHEREAS, the applicant received its NYSDEC Wetland Permit (No. 3-1336-00059/1) on October 8<sup>th</sup>, 2010 which will expire on December 31<sup>st</sup>, 2015; and

WHEREAS, the applicant has submitted a Groundwater Monitoring Report prepared by DT Consulting Services, Inc., dated October 9<sup>th</sup>, 2012, which concluded that “DTCS recommends spill closure from the NYSDEC; requiring no further action at this time” and has received NYSDEC approval approving the closure in a memo dated May 1, 2013; and

WHEREAS the applicant has submitted a Soil Management Plan prepared by DT Consulting Services, Inc. dated March 4<sup>th</sup>, 2013 and has received NYSDEC approval in a memo dated May 1, 2013; and

WHEREAS, the applicant has submitted the SWPPP prepared by Erdman Anthony dated revised March 18<sup>th</sup>, 2010 and has been approved by NYSDEC; and

WHEREAS, the SWPPP includes provisions for the installation and continuous maintenance of two (2) Hydrodynamic Separators on the downstream side of the fueling station; and

WHEREAS, the applicant has prepared the Site Plan to address the facilitation of any required sampling of groundwater to monitor subsurface groundwater pollutants in accordance with the consultants recommendation and acceptance of the NYSDEC; and

WHEREAS, the applicant submitted a Lighting Plan with lighting levels to between 5 and 10 foot-candles in response to the Planning Board and consultant comments; and

WHEREAS, the applicant has proposed noise mitigation with the addition of eight-foot (8') high stockade fencing on the west side of the property in a northerly direction from the property line at Route 199 to a point past the diesel fueling station; and

WHEREAS, the project sponsor has indicated that the proposed fuel storage and dispensing equipment will meet current regulatory requirements, and the project sponsor further commits to modifying and/or changing said equipment in the event that regulatory requirements change; and

WHEREAS, the applicant has prepared a soil management plan to be utilized during construction for protection of human health and of the workers who will construct the project and site infrastructure in accordance with the recommendations of the Subsurface Investigative Report; and

WHEREAS, the Applicant has received Final Approval by the Dutchess County Department of Health (DCDOH) on March 5<sup>th</sup>, 2013 for the proposed methods of water supply and sewage disposal; and

WHEREAS, any remaining minor site plan issues will be resolved during the process of plan revisions and do not in and of themselves rise to the level of creating a significant adverse impact on any aspect of the environment; and

WHEREAS, the applicant is currently in possession of a valid Highway Work Permit from the New York State Department of Transportation with an amendment to include the drive-thru and will resubmit current design drawings for review and approval of the NYSDOT.

WHEREAS, the previous Planning Board adopted a Negative Declaration for this project on December 2, 2009 and;

WHEREAS, due to the length of time that elapsed between that approval and now, various changes have occurred which include updated information from outside agencies and the addition of a drive through window which necessitated an updated Negative Declaration which has been prepared to reflect those changes; and

NOW THEREFORE BE IT RESOLVED that the Planning Board of the Town of Milan, in accordance with the requirements of Part 617 of 6 NYCRR of the New York State Environmental Quality Review Act (SEQRA) hereby resolves that the application known as Chestnut Mart of Milan will not have an adverse impact on the environment and a Draft Environmental Impact Statement will not be prepared.

Seconded by Mr. Jeffrey.

Chairman Wyant	Aye	Kim Koehler	Aye
Jeffrey Anagnos	Aye	John Mautone	Aye
Charles Godfrey	Absent	Radford West	Absent
James Jeffrey	Aye		

Motion carried 5-0.

Chairman Wyant motioned that the Planning Board approve the following resolution:

WHEREAS, the Planning Board has considered a formal application for the approval of a Special Use Permit for the storage of flammable materials and the retail sale of gasoline or other petroleum products as an accessory use to a convenience store that was submitted by Chestnut Mart of Milan in December of 2003 in conjunction with an application for site plan approval for property located at 1445 Route 199; and

WHEREAS, the proposal is indicated on plans prepared by Ciro Interrante, Architect, entitled “Plan of Record - Site Plan – Showing Everything- prepared for Chestnut Mart of Milan dated June 8, 2004 and last revised on April 29, 2013; and

WHEREAS, this parcel is located in the HB (Highway Business District) and is identified as tax parcel no.6571-00-536267, consisting of 2.946 ± acres; and

WHEREAS, the application was referred to the Dutchess County Department of Planning and Development for the GML 239 review and they responded with comments and recommendations to which the Planning Board reviewed and responded back to Dutchess County Planning in a memo dated July 7, 2005; and

WHEREAS, the applicant applied for and obtained from the Zoning Board of Appeals several area variances as detailed on the site plan and in the site plan approval resolution; and

WHEREAS, the project sponsor has indicated that the proposed fuel storage and dispensing equipment will meet current regulatory requirements and the project sponsor further commits to modifying and/or changing said equipment in the event that regulatory requirements change; and

WHEREAS, the Planning Board opened and closed the public hearing on this application on May 1, 2013; and

WHEREAS, the Board, after careful review of all of the project documents and plans submitted by the applicant and after comparing the impacts that could reasonably be expected to result from the action to those listed in Part 617,7 a-f of Part 617 of 6 NYCRR of SEQRA, re-issued a Determination of Non-Significance for the application on May 1, 2013; and

WHEREAS, in accordance with the provisions of Article VIII of the Town Code, the Planning Board may authorize a special use permit, provided that it finds that the applicable conditions and standards have been met.

NOW THEREFORE BE IT RESOLVED that the Planning Board of the Town of Milan hereby grants a Special Use Permit for the storage of flammable materials and the retail sale of gasoline or other petroleum products as an accessory use to a convenience store for Chestnut Mart of Milan subject to the following conditions:

1. Payment of any and all outstanding fees, including escrow, as follows:

Publication Fees: \$81.69

Application Fees: \$100.00

Any outstanding escrow fees

2. The Planning Board will re-visit the site lighting after one year, including the lighting for the sign, or sooner if needed. If complaints are received regarding the lighting, the Building Inspector (or appropriate person) will test the intensity of the lighting and the Planning Board will review and if needed, adjust the lighting plan.
3. The maintenance schedule for the hydrodynamic separator structures shall be adhered to as specified in the SWPPP submitted by Erdman Anthony last revised March 18, 2010 as follows:  
Inspection: Regularly during the first year of installation; every six months after the first year of installation.  
Oil and Floatables Removal: Once per year, with sediment removal; following a spill in the drainage area.  
Sediment Removal: Once per year or as needed; following a spill in the drainage area  
An inspection and maintenance log (also included in the SWPPP) must be completed and submitted to the Zoning Enforcement Officer by the facility manager or appropriate agent on behalf of Chestnut Petroleum Distributors once a year on May 1<sup>st</sup>.
4. The fencing around the dumpster and the dumpster area must be maintained structurally and aesthetically. The area must remain free of outside debris.
5. The vacuums may only be operated only between the hours of 7:00 a.m. to 9 p.m.
6. The cage for the bottle exchange for propane tanks must meet the appropriate standards and may not be placed in front of the building.
7. The stockade fencing installed to block the noise of the vacuums must be maintained structurally and aesthetically.
8. LED signs, flat screen videos, and external music are not allowed at the gas or diesel pumps to maintain as dark a sky as possible.
9. The applicant has requested 24 hour operation for the store, gas and diesel pumps. The Planning Board reserves the right to re-visit the hours of operation six months after the Certificate of Occupancy is granted and annually thereafter and may decrease the store hours or leave as is as the Planning Board determines.
10. All grandfathered signs must be modified and replaced no later than 180 days after the Building Permit is issued.
11. All landscaping must be maintained and replaced when necessary as per the landscaping plan, sheet no. L1, dated June 4, 2004 and last revised November 11, 2009.
12. The Zoning Enforcement Officer will inspect the site on a yearly basis to ensure compliance with the approved site plan and special use permit at the beginning of June of each year.

Seconded by Mr. Jeffreys.

Chairman Wyant	Aye	Kim Koehler	Aye
Jeffrey Anagnos	Aye	John Mautone	Aye
Charles Godfrey	Absent	Radford West	Absent
James Jeffreys	Aye		

Motion carried 5-0.

Chairman Wyant motioned that the Planning Board approve the following resolution:

WHEREAS, the Planning Board has considered a formal application for the approval of a Site Plan known as “Chestnut Mart of Milan” located at 1445 Route 199, tax grid number 6571-00-536267 which was submitted to the Planning Board in December of 2003; and

WHEREAS, the proposal is shown on a plan prepared by Ciro Interrante, Architect entitled “Plan of Record – Site Plan – Showing Everything” dated June 8, 2004 and last revised April 29, 2013 prepared for Chestnut Mart of Milan; and

WHEREAS, the proposal is for approval of the construction of a new 2,475 SF convenience store including a drive-thru window with queuing capacity of 22 +/- cars to Route 199, 2,475 SF of lease space, 12 gasoline fueling stations, 2 diesel fueling stations, 42 parking spaces and related site amenities to be developed on a site previously used as a gasoline fueling station, an auto junkyard and auto repair facility; and

WHEREAS, the site plan application was submitted in conjunction with a special use permit application; and

WHEREAS, the parcel is located in the HB (Highway Business) District and consists of 2.946 acres; and

WHEREAS, as a result of site plan review, the applicant applied for and received several variances as follows and which are noted on the site plan; and

- To locate a group of businesses on a 2.9 acre lot (requires minimum of 5 acres)
- Front yard setback to permit the placement of pump canopy 48 feet from the front line where 80 feet are required.
- Side yard setback to allow the placement of vacuum machines 10 feet from the west side line where 20 feet are required.
- To allow the petroleum fuel pumps to be located 41 feet from the west property line where 50 feet are required
- To allow the petroleum storage tanks to be located 40 feet from the west property line where 50 feet are required
- To permit a freestanding 65.3 square foot sign that is 15’11” in height which exceeds the permitted area by 45’3” square feet and the permitted height by

3’11”, to permit two canopy signs where one is allowed, and to permit four building signs where three are allowed.

WHEREAS, this application was referred to the Dutchess County Department Planning and Development who responded with comments and recommendations to which the Planning Board reviewed and responded back to Dutchess County Planning in a memo dated July 7, 2005; and

WHEREAS, a public hearing was opened and closed on May 1, 2013; and

WHEREAS, after careful review of all the project documents and plans submitted by the applicant and after comparing the impacts that could reasonably be expected to result from the action to those listed in Part 617 of 6 NYCRR of SEQRA, a Negative Declaration was approved by a motion of the Planning Board on June 2, 2009 and a Negative Declaration, revised to include the drive-thru window and current NYS DEC, NYS DOT, and Dutchess County Board of Health permit information, was approved by motion of the Planning Board on May 1, 2013 resulting in the re-issuance of a Determination of Non-Significance for this application; and

WHEREAS, after receiving site plan approval from the Planning Board, the applicant shall within three calendar months submit three complete sets of the site plan to the Planning Board and four copies of the “Site Plan - Showing Everything” (Page SP-1.5) for stamping and signature by the Chairperson and shall include detailed sizing and final material specification of all required improvements and an estimated project construction schedule; and

WHEREAS, the Planning Board’s approval of a site plan shall expire if either of the following circumstances occurs:

- (a) The site plan is not submitted for stamping and signature by the chairperson within three calendar months of the Planning Board’s resolution of site plan approval, with or without modifications, unless an extension of the time frame is granted by the Planning Board
- (b) A complete application for either a building permit or certificate of occupancy is not submitted to the Zoning Enforcement Officer and/or Building Inspector, as applicable, within six calendar months of the stamping and signing of the site plan by the Chairperson; and

WHEREAS, no Certificate of Occupancy shall be issued until all improvements shown on the approved site plan are installed or a sufficient performance guaranty has been posted for improvements not yet completed. Such performance guaranty shall be posted in accordance with the procedures specified within Section 277 of the Town Law. The amount and sufficient of such performance guaranty shall be determined by the Town Board after consultation with the Planning Board.

NOW, THEREFORE, BE IT RESOLVED, the Town of Milan Planning Board grants site plan approval to Chestnut Petroleum Distributors for the Chestnut Mart of Milan project subject to the following conditions:

1. Payment of any and all outstanding fees, including escrow, as follows:
  - Publication Fees: \$81.69
  - Application Fees: \$100.00
  - Any outstanding escrow fees
2. Installation of a manual transfer switch for a generator capable of providing power to the convenience store and fuel pumps must be installed prior to the issuance of a Certificate of Occupancy.
3. Any additional proposed business use and any change of an existing business use must obtain site plan approval from the Town of Milan Planning Board and Special Use Permit (if required) before a building permit or certificate of occupancy will be issued for that use.
4. A lock box needs to be installed and shown on the site plan, even though the applicant has requested to be open 24 hours a day, 7 days a week.
5. An E911 sign must be posted at the Route 199 entry drive.
6. A three year landscaping maintenance bond in the amount of \$1,400 must be provided to the Town of Milan to ensure successful planting.
7. All site debris must be removed prior to the foundation construction.
8. The cage for the bottle exchange for the propane tanks must meet the appropriate standards and may not be placed in front of the building.
9. The DEC has approved the closure of the monitoring wells in a memo dated May 1, 2013. The closure of the monitoring wells must be completed within 30 days of the approval of the DEC and evidence of the closures must be submitted to the Planning Board at the same time.

Seconded by Mr. Jeffreys.

Chairman Wyant	Aye	Kim Koehler	Aye
Jeffrey Anagnos	Aye	John Mautone	Aye
Charles Godfrey	Absent	Radford West	Absent
James Jeffreys	Aye		

Motion carried 5-0.

#### **Administrative Items:**

- **Approval of Minutes:** Mr. Mautone motioned that the Planning Board approve the minutes of April 3, 2013 as presented. Mr. Jeffreys seconded.
- Chairman Wyant Aye Kim Koehler Aye
- Jeffrey Anagnos Aye John Mautone Aye
- Charles Godfrey Absent Radford West Absent
- James Jeffreys Aye
- Motion carried 5-0.

**Correspondence:**

- At the workshop held on April 25<sup>th</sup>, the Board agreed to forward a letter to Scott Olson with questions regarding the Verizon application. The letter was sent to Mr. Olson from Chairman Wyant on April 29<sup>th</sup>.

**Applications:**

1. **Munsch Two Lot Subdivision:** Mark Graminski appeared on behalf of Lauren Munsch for her application for a two lot subdivision of property located at 212 Round Lake Road, tax grid number 6370-00-954632. Mr. Graminski said he and some members of the Board had done a site visit some time ago and based on feedback from that, he has prepared a subdivision plat map. He is currently working on a sight line analysis for the driveway entrance off of Round Lake Road which is a county road. He said this lot, which is owned by Lauren Munsch, has property on both sides of Round Lake Road. Ms. Munsch has filed the paperwork with the Town assessor to separate the parcel on the north side of Round Lake Road into its own separate lot. This would be considered a natural subdivision and is not part of this application. This application is for a two lot subdivision of the remaining parcel on the south side of Round Lake Road. Right now, he is showing the proposed driveway going to the back of the property to the proposed house location. Mr. Graminski said there is an existing roadway there now which goes through a rock cut and opens up into an open area. He is working with the Dutchess County Department of Public Works regarding the access for a common drive. There is an existing house on the property now with a single access. They would abandon the existing single access and replace it with a common drive entrance. Mr. Jeffreys asked how will they get access to the front of the garage as it appears to be a very tight area. Mr. Graminski said there is 20 feet at the back side of garage; it will be tight but doable. If they go with this proposal, a variance will be required for the garage as it is 31.6 feet from the front property line and 12.5 feet from the proposed side property line.

Mr. Graminski said he is here tonight to see if the Board agrees he has accomplished what he needs to for this subdivision as far as the layout and, then, what is the course of action. With this lot configuration, he would need to go to the ZBA for area variances for the garage and for minimum lot width for Lot 1. Mr. Jeffreys said he should also include the front line variance for the existing house as it is only 12.3 feet from the front line. Even though the house is pre-existing, the whole lot will be in compliance at that point. Mr. Jeffreys said Mr. Graminski should figure out all of the required variances, show everything on the map, then the Planning Board will make a recommendation to the ZBA for multiple variances. Mr. Graminski asked if the Board felt they were at a point where he could go to the ZBA with this Board's recommendation. Mr. Jeffreys said he wants to see the elevations as it is very steep coming off the county road and he is concerned that they are trying to make up 6 feet in a distance of 30 feet. Otherwise, this plan is exactly what we wanted to see. Mr. Graminski said it is

only 4 feet. He said he moved the entrance to where the driveway slopes down so that he did not have to put it on the other side of the telephone pole. In the first 50 feet off of the road, it is a 4 to 5 foot elevation change and he varies between 10 and 14% grade all the way through. There will be a culvert that will catch all the run off and bring it into the detention pond. Mr. Jeffreys said a Town driveway requires a negative pitch to the road. Mr. Graminski said he only needs a negative for 6 feet; it is a county road. Mr. Jeffreys said it is steep and rocky so it will require a lot of hammering. Mr. Graminski agreed.

Mr. Graminski said at this point, he is trying to gather as much information as possible. He thinks he can prepare a plan and demonstrate access for Mr. Paggi's approval. He would like to get in front of the ZBA as soon as possible because if they won't grant the variances, then there is no project. Mr. Jeffreys said you have met what the Board wanted to see after the site visit but what we don't see is how this can be accomplished mathematically; take this plan, expand it, show us the grades, and demonstrate that this can be accomplished. Once that is done, the Board can send a recommendation to the ZBA based on appropriate engineering. Mr. Graminski said he will come back to the Board with an acceptable driveway design. He asked if the Board will require submission to the Board of Health for approval of the septic system; the lots are under five acres. He said if he submits to the Board of Health, it will require approval for the lot with the existing house. At that point, the Board of Health will require he design a system that meets current Board of Health standards. Mr. Jeffreys suggested he design two, one for each lot, and then just build one. The Planning Board can make Board of Health approval a condition of final approval.

Mr. Graminski needs to come back with all the variances that they will be asking for and the elevations with two foot topo. The proposed driveway looks to be about 700 feet; NYS Building Code requires pulls offs when a driveway is in excess of 500 feet. This will also require a Fire Department review. Mr. Graminski asked if this will require an ODA since it has a shared access. The Clerk will get back to him tomorrow with that information.

Mr. Anagnos motioned to adjourn the meeting at 8:15 p.m. Mr. Mautone seconded.

Joan Wyant, Chairman	Aye	Kim Koehler	Aye
Jeffrey Anagnos	Absent	John Mautone	Absent
Charles Godfrey, Jr.	Aye	Radford West	Absent
James Jeffreys	Aye		

Motion carried 4-0.

The next meeting will be held on Wednesday, June 5, 2013 at 7:00 p.m.

Respectfully submitted,

Karen Buechele, Clerk  
Planning and Zoning

cc: Catherine Gill, Town Clerk  
Town Board