

**PLANNING BOARD**  
**Town of Kirkwood**  
**70 Crescent Drive**  
**Kirkwood, NY 13795**

**February 11, 2019**  
**Meeting Minutes**

Present: Jim Bukowski, Member                      Bill Graves, Attorney  
Mike Maciak, Associate Member              Chad Moran, Building & Code Inspector  
Gordie Woolbaugh, Member  
Dan Wasson, Member  
Marchie Diffendorf, Chairman

Absent: Kevin Balachick, Member

Chairman Diffendorf called the meeting to order at 7:00 PM.

**APPROVAL OF MINUTES:**

Motion by Jim Bukowski and second by Gordie Woolbaugh to approve the minutes of the January 14, 2019 meeting as submitted.

All voted in favor. Motion Carried.

**E.A.F. DETERMINATION – ROBBINS SIGN, CO.:**

Jim Bukowski commented that the EAF form has been submitted. It should be noted that the Planning Department found no adverse impacts on the County level. There was a recommendation from DOT that stated we have reviewed the materials from the above-referenced proposal. Please note that nothing may be placed in the State right-of-way including signage and parking. Those are the two comments.

Gordie Woolbaugh questioned whether question #3c should be +-1.5 or 1.2 as it is on the detail summary. For question #9 since it is a yes or no answer and it is marked N/A, he assumes it should be marked yes. Bill Graves stated he is comfortable with the way it is, given what it is. Gordie Woolbaugh stated question #14 has no check marks. It was determined that it should be Suburban. As to question #17, if the answer is no the other two questions do not have to be answered.

Mr. Graves stated that at some point the applicant will need to initial the changes on the master copy.

Hearing no other issues, Mr. Graves reviewed with the Board Part 2 – Impact Assessment of the Short Environmental Assessment Form, which is included in the file. The Board answered No to all questions asked by Mr. Graves. Jim Bukowski commented that based on the finding in Part 3 - Determination of Significance, the second box at the bottom of the page could be checked.

Motion by Mike Maciak and second by Dan Wasson that the Planning Board, as lead agency in this Unlisted Action, declare a negative declaration for the purpose of SEQR, since based on the review of the short form EAF and the updated site plan, the proposed action will not result in any significant adverse environmental impact in the Town of Kirkwood.

Roll Call Vote:	Jim Bukowski	Yes
	Mike Maciak	Yes
	Gordie Woolbaugh	Yes
	Dan Wasson	Yes
	Chairman Diffendorf	Abstain

Motion Carried.

**SITE PLAN REVIEW – ROBBINS SIGN CO.:**

Jim Bukowski asked if anyone had any comments. Mr. Graves asked if there were driveway dimensions that could be included on the site plan and Kelly-Jo Hunink stated they were added on. He also asked if the names of the adjacent property owners were updated as well as uses and they were. Mr. Graves asked Chad Moran if there is anything left unresolved from his comments and Chad stated no.

Motion by Dan Wasson and second by Gordie Woolbaugh to approve the site plan review as submitted.

Roll Call Vote:	Jim Bukowski	Yes
	Mike Maciak	Yes
	Gordie Woolbaugh	Yes
	Dan Wasson	Yes
	Chairman Diffendorf	Abstain

Motion carried.

**E.A.F. DETERMINATION – JOSEPH BALOUGH/J & J AUTO SALES:**

Chairman Diffendorf explained that there are a few comments that came from Mr. Graves. Starting with question #1 on the Short EAF, the answer should be no. With question #3, total acreage of the proposed action was not listed but according to Broome County GIS it is .51. Also question #16, is the project site located in the 100 year flood plain. Chairman Diffendorf asked Chad if he had that answer and Chad explained they still need to check that but it is in the floodway, with flooding coming down from that creek. Chairman Diffendorf commented that answer should be no.

Gordie Woolbaugh commented that question #11 is checked no but then it asks for an explanation. Chairman Diffendorf asked Mr. Balough if he had a sink and bathroom at the facility and Mr. Balough stated yes. Chairman Diffendorf asked if it was hooked to the existing wastewater and Mr. Balough stated it is hooked to the sewer. He doesn't have any runoff that goes onto the ground, the bathroom and sinks are hooked to the sewer system. That answer should be yes.

Hearing no other issues, Mr. Graves reviewed with the Board Part 2 – Impact Assessment of the Short Environmental Assessment Form, which is included in the file. The Board answered No to all questions asked by Mr. Graves. Chairman Diffendorf commented that based on the finding in Part 3 - Determination of Significance, the second box at the bottom of the page could be checked.

Motion by Gordie Woolbaugh and second by Mike Maciak that the Planning Board, as lead agency in this Unlisted Action, declare a negative declaration for the purpose of SEQR, since based on the review of the short form EAF and the updated site plan, the proposed action will not result in any significant adverse environmental impact in the Town of Kirkwood.

Roll Call Vote:	Jim Bukowski	Yes
	Mike Maciak	Yes
	Gordie Woolbaugh	Yes
	Dan Wasson	Yes
	Chairman Diffendorf	Yes

Motion Carried.

**SITE PLAN REVIEW – JOSEPH BALOUGH/J & J AUTO SALES:**

Chairman Diffendorf stated comments regarding the 239-m, the most important one would be the property lines and the ingress and egress. You can't park any vehicles off your property. They all have to be on your property. You have been in violation of that for quite a while. Mr. Balough stated he thought it was all corrected and Chairman Diffendorf stated no. Mr. Balough stated he moved everything over and Chairman Diffendorf stated no, you are encroaching on other properties and you can't do that because this site plan review is specific to your property, your tax map number. That is one of the biggest concerns we have. NYS DOT says you can't encroach on their property. We have a letter from the Regional Traffic Engineer, the Binghamton Metropolitan Transportation Study also commented on it. It has been an ongoing issue with our Code Office.

Mr. Graves stated the comment from the County reads that nothing may be placed within the State right-of-way and they are referring to Route 11, including signage and parking. The County suggests that you coordinate with the NYSDOT Broome Residency for assistance in locating the highway boundary. It should be shown on the site plan and the parking and display area should be removed from the State right-of-way as necessary. What Marchie is talking about is the display of vehicles in front of the building between the building and Route 11.

Mr. Balough explained he already had this conversation with Oliver Blaise. Oliver requested that he take the initial Planning Board minutes and give his interpretation of them. Write down how he felt they should be interpreted and put it down on paper. He said Oliver reviewed it and was in agreement with him with the way he has his cars parked on his property. He had no problem with it. It was ongoing prior to that with the previous code officer who had come in and said according to the Planning Board minutes you can't park cars there. It had something to do with bumper to bumper.

Mr. Graves explained that his understanding is that Mr. Balough had mentioned somewhere along the line that he had a letter from the DOT granting him permission to park vehicles within the right-of-way. Mr. Balough stated no. Chad Moran stated that was what Oliver Blaise said you told him. Mr. Balough explained that he has petitioned DOT to purchase some of that right-of-way because it is 35 feet off the shoulder, it come way up because the highway boundary of the old turnpike did not follow the current line of Route 11. The turnpike right-of-way is skewered across his property. He has already put a petition in to purchase a wedge that would give him approximately 35 feet from the front of his building out. The line would run parallel to the front of his building. Mr. Balough went on to say that he works for DOT and he went to real estate and asked what the

status was and was told it has to be reviewed. But because he works for DOT this region DOT cannot process it. His application has to be processed in Albany. Mr. Graves asked when he made that application and Mr. Balough stated six months ago. He made the application before but for some reason the Commissioner of DOT put everything on hold as far as employees applying for things like that. Now that he is gone the new Commissioner has changed the opinion and now he can reapply. He will have approximately 35 feet in front of the building. Where he parks his cars now they are in compliance because they are behind the property line. He was told at the zoning meeting or the planning meeting the difference between a property line adjacent to another property, which he has to stay 10 feet off of and a property line that borders a State right-of-way, which he can go right up to. Mr. Balough stated he is up to that line.

Mr. Graves stated that is not what DOT is saying. They say you are in the right-of-way and have said this since 2009. There is a letter from DOT dated November 19, 2009 stating they have reviewed the site plan application and no display vehicles, customer parking, signage or other items are permitted in a State right-of-way. If any work is proposed in the right-of-way you must obtain a Highway Work Permit from DOT. Mr. Balough stated that was their statement from before. That was their advisement to the Planning Board of what they are looking for. As of right now he is within his property line. Chairman Diffendorf stated if that is correct then you are ok. If you are encroaching on the State property or on the property to the west you are in violation. It looks like when you park vehicles on the west corner you are on the adjacent property. There is only about six feet from the corner of your building to the property line. There are vehicles on the other property. Mr. Balough stated he thought they were all moved.

Chairman Diffendorf stated they have been there since you opened the place. Chad Moran stated he has date and time stamped photos. If he asked the guys to move them they move them a little bit but when I would go back a few days later they are back. Chairman Diffendorf stated you have been in violation and our code office has been trying to correct this without any success so we are going to try and correct that tonight.

Chairman Diffendorf explained he would like to see a fence along the west property line, from the corner of the State property, your property and the Hess property heading north to the back of your property. Mr. Balough stated that would eliminate his entrance to the driveway. Chairman Diffendorf stated that is another issue. We want, in his opinion, an ingress and egress off of Loughlin Road only. Mr. Balough asked why they are changing the rules now. This was never brought up before. Chairman Diffendorf stated we expect you to go by the conditions that were presented that night and you haven't. Mr. Balough asked if you were changing them now and Chairman Diffendorf stated no, most of these were the same conditions. Mr. Balough stated he was never told he could not use access to Route 11, from the original Planning Board meeting or minutes. It was approved without any of those restrictions. He doesn't think that is fair. Chairman Diffendorf stated the State doesn't want you using it. They don't want you accessing Court Street.

Mr. Graves read the following from the Binghamton Metropolitan Transportation Study's letter: It appears that the submitted site plan for this project is inconsistent with the previously approved 2010 site plan for the automobile sales use. Specifically vehicles for sale are being displayed in front of the building and the site is accessed from two undefined driveways along Route 11, whereas the 2010 site plan does not include a display area in front of the building and access to the site from Route 11 is only from one driveway located to the west of the building. The Town may want to consider taking this opportunity to bring the site into compliance with the previously approved site plan, such as by requiring curbing and driveway delineation to reducing vehicular access point to Route 11. Therefore, if it is determined that the display parking in front of the building is located within the State right-of-way it may need to be removed. Mr. Graves explained what the County is saying what you need to do is coordinate with DOT Broome Residency for assistance in locating the highway boundary. You have indicated you have applied for a purchase of some of the right-of-way and Mr. Balough

agreed. Mr. Graves asked what land would he be purchasing and Mr. Balough stated directly in front of the building. Mr. Graves asked why he would need to purchase that if it is not within the right-of-way and Mr. Balough stated he is trying to get more room to alleviate this whole issue.

Mr. Graves asked if he was trying to buy additional land in front of his building would that land be where the vehicles are currently parked in front of your building and Mr. Balough stated no. Mr. Balough explained that land was surveyed when it was separated from the original parcel. The original parcel was his parcel and Frank Swetay's building behind it. He purchased the front area and we had to have a survey done. Mr. Graves asked if he had the survey and Mr. Balough stated it should be in his file. Chad Moran asked if it was the survey he submitted for this meeting and Mr. Balough stated no, he submitted an actual stamped licensed survey with the original Planning Board which, if you looked at that, there was enough room for him to park cars, with the way he had them parked, without being in the State right-of-way.

Mr. Graves stated the County's comments are that the highway boundary should be shown on the site plan and the display area should be removed from the State right-of-way and they are suggesting you contact the DOT to locate the highway boundary or the right-of-way. If it is a matter of updating the site plan to show that and if that is reflected in the survey then that is fine. The County is just saying they don't see that is the case. All the County has is the drawing you submitted.

Chad Moran stated that is the first problem and the second problem is it is only 6'8" of property he owns and he cannot feasibly access Route 11 and go to the left side of his building and go around. A live fence will just keep your cars off the other property, not allow you to come in and out that way because you can't do it, unless you have a motor cycle and currently you have a car parked there. If the car is parked there you cannot go around your building. Even if the car isn't there there still isn't enough room to go around the building. Access from Route 11 is a moot point.

Mr. Graves stated the next comment is the site plan should include the driveway curb cuts and dimensions that were approved in 2010. The proposed site plan shows uncontrolled access to Route 11. Google maps shows two poorly delineated vehicular access points on Route 11 and one poorly delineated vehicular access point on Loughlin Road. See enclosed comments from BMTS, which we discussed. Mr. Graves went on to say based on the State's comments they are requiring curb cuts and dimensions that were approved on the 2010 site plan. Mr. Balough asked what curb cuts and stated there is no curbing there. Chairman Diffendorf stated that curb cuts can be a figure of speech, even though there is not a curb there. If you want to make a driveway that would be considered a curb cut.

Chairman Diffendorf pointed out that on his drawings he does have the driveway entrance off of Loughlin Road. Mr. Balough stated yes. Chairman Diffendorf stated in his opinion that is the only one that should be allowed.

Mr. Balough asked if we were redoing the plans here or is he just applying to be able to rent some trucks off of property that he already has parking spaces for and Chairman Diffendorf explained we are taking a look at the site plan for the entire site because you are changing the use of it. Also, you have been in violation for several years. Mr. Balough stated he would just withdraw his application and Chairman Diffendorf stated you would still be in violation and we are trying to get that across to you. You can't park in a lot of these areas where you are already parking. Chairman Diffendorf believes that the site plan review in 2010 indicated that the vehicles in front of your building had to be parked parallel with Route 11. Mr. Balough stated that is a misrepresentation of the Planning Board minutes and he will have to request another copy of the Planning Board minutes. When he read them through and he explained his interpretation of the paragraph and the statements made by the Town

and several board members he was in complete agreement with him that the way he had the cars parked right now as long as he is close enough to his building without going in the right-of-way he is legally parked. This is something that he wrote up and presented to Oliver Blaise, who reviewed it and agreed that Mr. Balough was correct in his interpretation of the Planning Board minutes. He is at a loss because he doesn't have it with him.

Mr. Graves explained that he discussed this with Oliver personally and he thinks that is a misrepresentation. As he said before the conversation with Oliver was based around your claim that you had received some sort of letter from the DOT or some sort of permission. Mr. Balough stated that Mr. Blaise cannot reproduce the letters that he sent to him or the letters that Mr. Balough gave him. All of that is gone so everyone is trying to talk from recollection. Mr. Graves asked what letters and Mr. Balough stated from Mr. Blaise and to Mr. Blaise. Mr. Balough stated that Mr. Blaise said he couldn't talk to him about this because it is too hard. He had asked Mr. Balough to write him a letter explaining his interpretation of the Planning Board minutes, how he interprets the parking and send it to him. Mr. Blaise had said he would read it and look at the Planning Board minutes and see if we are in agreement. Mr. Balough stated he wrote the letter and sent it to him and he read it and he told him that he was in agreement with his interpretation. Chairman Diffendorf asked Mr. Balough if he had the letter he sent to Oliver and Mr. Balough stated no, he had no idea he would have to resubmit a site plan review for something that was already done and approved. Chairman Diffendorf asked if he had copies of those letters and Mr. Balough stated Mr. Blaise is trying to find them. He says he can't find them but he does know they exist. He looked through his computer, he looked through the days and he knows they exist, he agreed.

Mr. Graves stated as I have said this is all contingent upon some sort of approval from the DOT to place something within the right-of-way. Mr. Balough stated no, he never suggested that he would get approval from DOT. The DOT would never give that. Chad Moran stated he spoke to Oliver approximately 45 days ago and send Oliver pictures of the cars that are not compliant, which is 10-15 cars parked next door. Oliver had told Chad that Mr. Balough was going to provide a letter from the State. If that was the case there wouldn't be a problem.

Mr. Balough asked how he could get copies of the Planning Board minutes and Chairman Diffendorf stated we have them on file. Mr. Graves stated if they are not available on the website you can submit a FOIL request. Mr. Balough stated it looks like he is going to have to redo this all over again and Mr. Graves stated the point is that he has suggested a new use which has esthetic impacts, traffic impacts, impacts regarding location of vehicles parked on your property such as the vehicles you already have there for sale, and the U-Hauls and trailers that you are renting. Mr. Balough stated there is room in the back of the building and that is where the U-Haul trucks are. Mr. Graves asked why there are cars to the west of the property on the adjacent property. That is one of the things we are trying to address tonight, if there is ample parking in the back. Mr. Balough stated all the U-Hauls are in the back. Mr. Graves asked if there are vehicles on the adjacent property, whether they are vehicles for repair or that you are selling or employee vehicles and Mr. Balough stated not that he knows. Mr. Graves stated that Chad has photos from a couple of weeks ago showing them. Mr. Balough stated that sometimes customers come in and park cars, which he has no control over that. When they come in they move them. He said he has no cars for sale or display with numbers on the windshield on that property. Chairman Diffendorf stated that maybe a fence would correct that issue and Mr. Balough stated possibly. Chairman Diffendorf stated if there is a fence there they can't park on that adjacent property and Mr. Balough agreed but said he would have to come up with the money for the fencing. Chad Moran stated it is a living fence, he thinks that is what was agreed to in 2010. It was going to be in by June 2010. Mr. Balough stated that was going to be on the east line, from the telephone pole down to the grassy area. Chad asked if it was going to

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be a living fence and Mr. Balough stated it was going to be more trees put in there but unfortunately they had a cold and a freeze and a warm up and a freeze and he had to ice dam on the roof, which cracked the roof and he had to invest \$45,000 to \$50,000 to put a new roof on. He went on to say when he had to pay to fix the roof \$45,000 to \$50,000 that will obviously impact the money he has to do other things. In 2016 and 2017 were very poor business years for him. The used car industry took a real hit with a lot of guys going out of business. He survived it and at the end of 2017 and mid 2018 and now things are coming back around.

Mr. Graves stated looking back at the meeting minutes from March 8, 2010 Planning Board meeting and he sees that this was a contingency to approval. A living fence to be installed by June 2010, which was with respect to the property to the west. There are letters from the Town, the former Code Enforcement Officer, dated April 5, 2013. There is a letter from February 14, 2014 and a letter from March 7, 2014 addressed to you. Mr. Graves read some snippets from the letters regarding parking on adjacent property, living fence, etc. Mr. Graves stated he can related to what he is saying regarding money but none of this should come as a surprise. This is nine years old. These were the original approvals and that is what the Planning Board is attempting to obtain your compliance with. Mr. Graves went on to say you seem to not understand why we keep bringing these things up. Mr. Balough stated not everything you are saying is correct. Parking cars parallel to his building was never agreed upon.

Mr. Balough stated he is going to have to table this until he can get a copy of the Planning Board minutes and he will reiterate his interpretation of the minutes and he will present them again and he will get agreement again because it was as plain as the nose on your face if you read it that the explanation was consistent with the way he is parking the cars in front of his building right now. He has to do all of this again because for some reason that paperwork is missing. Mr. Graves stated that the minutes are clear. We are talking about the boundary to the west and the living fence and he thinks that was a condition to the original site plan. Mr. Balough asked if he put shrubs along his property line he will be okay and Mr. Graves stated he was just telling him what the original conditions were. Mr. Graves stated that would bring you into compliance with what was approved in 2010. Chad Moran stated that would probably prevent parking on the Hess property and driving around the property and entering from Route 11. Mr. Balough stated he has driveway access to Route 11. Chad Moran explained he didn't have enough property with access, with the way the cars are parked. Mr. Balough asked if that was the case where was this information when he got approved. Chad Moran stated with the condition of putting the living fence in. We are trying to hold you to that now.

Mr. Balough stated he will have to wait until he can get the Planning Board minutes and go through this again. Chairman Diffendorf asked if he was saying he would like to withdraw his application for this meeting and Mr. Balough stated all he is doing is parking three, four or five trucks in parking spaces that were already approved by the Planning Board. Chairman Diffendorf stated let's get this resolved. You had said you were going to get access to the site plan review minutes and application from 2009/2010. Mr. Balough stated the initial one. Chairman Diffendorf asked in the meantime do you want to suspend this site plan application until you have the opportunity to review. Mr. Balough stated if you are not going to approve this, to approve the U-Haul then there is no sense in going anywhere. If he can't get you to consider the application to have a few trucks on my property to rent that are parked out back in parking spaces that were originally approved by the Planning Board and we are not going to get to that point then what is the sense of going on. Chairman Diffendorf stated you determine that. We will set some conditions that you accept them or reject them. If you reject them then your site plan review will be denied, if this Board votes that way. Right now anything is still possible. Mr. Balough stated he is not changing parking spaces, he is not adding parking spaces, and he isn't moving parking spaces. He is using existing parking spaces that were previously approved by the Planning Board to park three or four U-Haul trucks. Chairman Diffendorf stated most of us up here are familiar with the case and agree that

you are violating the site plan review by parking on the west property, adjacent to you. Mr. Balough stated there is nothing there, right now if you go there, there is nothing there. Chairman Diffendorf stated might not be right now but they was today. Mr. Balough stated it has to be customers coming in. Chairman Diffendorf stated a well maintained living fence might be the solution to your problem.

Chairman Diffendorf asked again if he was saying he wanted to suspend this for a month and Mr. Balough stated it sounds like he has to. The way you are disputing the way he parks his cars in front of his building, which was already discussed, approved and reiterated and agreed upon between the Town and myself. Chairman Diffendorf stated we have covered that several times.

Chairman Diffendorf asked again if he wants to suspend this site plan review application for a month and Mr. Balough asked if we could go on past this with the State right-of-way or is this a sticking point that we can't get past. Chairman Diffendorf stated you have said several times you want to look at the site plan review from before and Mr. Balough stated if we can't move ahead with this proceeding and until that is clarified then yes. Mr. Graves stated to Mr. Balough that he thinks Marchie is telling you the way it is going to have to move ahead and that is with respect with compliance with the original site plan. Mr. Balough stated then it can't move ahead. Mr. Graves explained it can move ahead within the boundaries of what you were originally permitted to do but you seem to be reluctant to accept that. The Planning Board will discuss this and consider your site plan application and they are justified in imposing conditions on that application to be in compliance with your original site plan. If you are of that mind set of compliance with the original site plan then he thinks it can go through. But if you believe that is not what the original site plan says and this is an undue burden on you then he doesn't think it can go through. Mr. Balough stated that obviously the living fence can't happen until spring. If the way my cars are currently parked in front of his building is a sticking point then yes, he would have to adjourn. But if they are not a sticking point and the cars to the west are and he moves them and make sure they stay moved then it wouldn't be a sticking point.

Mr. Graves offered a suggestion that if this is something that needs to be tabled and not necessarily approved or denied tonight if this is something where you would be willing to hear the Planning Board's thoughts and discussions about what they would like to see. Perhaps you could take notes of that and come back with having addressed those considerations, whether it be the site plan or on the site or whatever it may be. Mr. Balough stated it would be easier for him to get the list now then have to come back in a month and get the list then.

Chairman Diffendorf stated they also recommend that you talk to the DOT in regards to your property lines, where they are located. Mr. Balough stated he knows the property lines. There are already pins there. It is a matter of going from one spike to another spike and drawing a line. They exist, they are already there. They were put in when the survey was done to separate his property from the full parcel.

Jim Bukowski stated there still needs to be come clarification of the entry way off Route 11. Jim has looked at it and it is as the Code Officer said, there isn't enough room to get in off Route 11 without going on the adjacent property. Mr. Balough stated that has been there and it was approved back then. Jim Bukowski stated that should be a condition, to clarify the entryway on Route 11 by DOT. Chairman Diffendorf stated we have read that they don't want ingress and egress off of Court Street. Mr. Balough stated he has never received any mail or letters so if you have anything he would like to get a copy of that. Chad Moran stated the plans that he submitted just shows the entrance off of Loughlin Road and with the way he has vehicles displayed it would even allow access from Route 11. Chairman Diffendorf commented it shows the driveway entrance on Loughlin Road. Mr. Graves stated he agrees and he thinks that is what the County and the BMTS is referring to, on the original site plan it doesn't allow for access to Route 11. In the materials that he submitted we have a driveway entrance to the east on Loughlin Road and the Broome County GIS that was submitted as part

of your application is consistent and supports that there is no access to Route 11. If that is not the case a revised site plan would make that clear. With what we have here it doesn't reflect that. Mr. Balough asked for the list of whatever else the Planning Board views as a requirement.

Mr. Graves stated he would write down as they are discussing and keep a record or list. He added that it is not for him to determine, he is not a Planning Board member. He can only tell you what is legally required.

Following is the list that the Planning Board discussed:

1. Living fence along the west property line, which should be well maintained, dense enough that vehicles can't drive through it.
2. DOT isn't going to want an ingress and egress off of Court Street, next to Loughlin Road. There is a driveway entrance on Loughlin Road on the site plan drawings and that is where it should be.
3. Landscaping, besides the living fence, well maintain grass area with plantings on the corner of Loughlin Road and Court Street. Also, in the back along Loughlin Road, all the way to the north, there should be grass area with fir trees.
4. A sign permit is needed for the U-Haul sign on the front of the building.
5. Curbs on the property line in front of the building so vehicles aren't on the State right-of-way.
6. No outside storage. No outside storage of barrels and tanks. Park vehicles only on the property.
7. Coordinate with the NYSDOT Broome Residency for assistance in locating the highway boundary.

Mr. Balough asked if he were to get a letter from DOT stating he is not currently on their property are we done with this issue and Mr. Graves stated if DOT determines that you are not within their right-of way then that satisfies that issue. Chairman Diffendorf stated that doesn't mean that today you are not in the right-of-way and tomorrow you can be.

Chairman Diffendorf asked for a motion to accept with conditions or reject and Mr. Graves explained that the Board could but he didn't know if Mr. Balough wanted a list of things to obtain and then come back or do you want to accept with these conditions. Jim Bukowski stated table this until he gets verification for the things he has to show. Mr. Balough asked if the Board wanted to table this and Jim Bukowski stated that will give you time get these things in order so we know what we are voting on. Mr. Graves asked if there is a certain amount of time so it doesn't get dragged out and Chairman Diffendorf stated 28 days, until the March 11<sup>th</sup> meeting and submit it to the Code office by March 4<sup>th</sup>. Mr. Balough asked what are you looking for and Chairman Diffendorf explained that you are agreeing to these conditions and you are going to look at the previous site plan review. Mr. Balough asked is it either that or could he withdraw this application, is that what you are saying and Chairman Diffendorf stated he could withdraw this application. Chad Moran stated he would still have to adhere to what he agreed to prior. Either way it has to get done. Mr. Balough asked if it would be put on hold and Chairman Diffendorf stated yes. Mr. Balough stated he doesn't know if he could get DOT to act that fast. Chairman Diffendorf stated you already have trucks there and are doing business. When you are ready come in. We want to act by the April Planning Board meeting.

Mr. Graves stated he doesn't think what the Planning Board is asking for, the curbs to be installed, the living fence to be installed and all of those things to be in compliance by the next meeting. There are a few things we need more information on, determining boundaries, plans in place for the installation of the living fence and the installation of the curbs. We just want to see that this going forward. Mr. Balough stated between now and then he doesn't think he is going to get DOT to come out and verify that his current parking situation is on his property. He said he would go to Residency and speak to the engineer and he will see what kind of a time frame they are talking about.

Mike Maciak asked if there was a name from DOT that we can give Mr. Balough. Mr. Balough stated you are talking about these letters which he has never received or seen. Chairman Diffendorf stated Tony Signorelli. Mr. Balough asked what the date of the letter is and Chairman Diffendorf stated January 8<sup>th</sup>. Mr. Balough asked if he could get a copy of the letter. Chairman Diffendorf stated yes, Chad's office can give you a copy. Chairman Diffendorf asked Mr. Balough if he received a copy of them and Mr. Balough stated no, that is why he is at a loss. Chairman Diffendorf asked Mr. Balough how much time does he need and Mr. Balough explained he would call over to Residency and ask them if that is something they would be willing to do. They may say yes or they may say we are not willing to do that, we have to have a survey crew come out. Chairman Diffendorf stated it says to call them.

Mike Maciak asked if there were pins there now and Mr. Balough stated there are spikes in the ground where it was staked out when the property was separated. He paid for a professional surveyor to come in and survey it and put pins in.

Chairman Diffendorf explained to Mr. Balough that he knows the conditions or he could get the list of the conditions in about a week or so and when he is ready go talk to Chad and we will set up another meeting.

Motion by Mike Maciak and second by Jim Bukowski to table the Site Plan Review until more information is supplied by the applicant.

Roll Call Vote:	Jim Bukowski	Yes
	Mike Maciak	Yes
	Gordie Woolbaugh	Yes
	Dan Wasson	Yes
	Chairman Diffendorf	Yes

Motion Carried.

Chairman Diffendorf stated to Mr. Balough let us know and Mr. Balough stated he would let Chad know what timeframe it is, whether it is going to be days, weeks, or months.

Motion by Dan Wasson and second by Gordie Woolbaugh to adjourn the meeting. The meeting was adjourned at 8:32 pm.

Respectfully Submitted,

Mary Kay Sullivan  
Acting Secretary, Kirkwood Planning Board

cc:	Planning Board Members	Dan Griffiths
	Gayle Diffendorf	Scott Snyder
	John Finch, Jr.	Oliver Blaise, III
	Bill Diffendorf	William Graves
	Code Department	