



Environmental, Planning, and Engineering Consultants

34 South Broadway
Suite 300
White Plains, NY 10601
tel: 914 949-7336
fax: 914 949-7559
www.akrf.com

Memorandum

To: Town of Washington Planning Board
From: AKRF, Inc. (A. Werner, AICP; A. Moore)
Date: August 2, 2024
Re: Hammond – Special Permit (3815 Route 44)
cc: Holly Hammond / Cape’s Gemini LLC (property owner)
Joseph P. Eriole (PB Attorney)
Jonathan Ialongo (Town Building Inspector)

AKRF, Inc. has reviewed the following documents and plans for the above referenced application:

- Planning Board Application dated 3/5/24.
- Owners Affidavit, undated.
- Disclosure of Business Interest, undated.
- Owner’s Endorsement, dated 3/26/24.
- Consent to Inspection dated 4/1/24.
- Deed.
- Aerial image.
- Environmental Assessment Form (EAF) dated 4/1/24.

PROJECT DESCRIPTION

The Applicant proposes to open a retail business located at 3815 Route 44 (tax parcel 135889-6865-00-661530), a 4.6-acre lot in the HM zoning district. The subject property is currently improved with an approximately 8,200 SF commercial building, driveway/parking area, and possibly accessory structures. The Applicant proposes to sell local produce. No exterior construction is proposed in the application. A special permit is required for retail uses in the HM district.

COMMENTS

APPLICATION COMPLETENESS

1. As provided in the application, the property currently contains a vacant commercial building. Per Parcel Access, the building is 8,200± SF, and the lot also contains an accessory shed. However, the Applicant should provide complete information regarding existing conditions, including onsite structures and their descriptions. The Planning Board may request further information about the

existing building, including the building footprint and stories. The Applicant should confirm that the building is vacant, or if not, its current use (including any existing residential apartment that may be in the building). If vacant, the Planning Board may request the most recent use and for approximately how long the building has been vacant.

2. In addition to existing conditions, the Applicant should clarify whether the project proposes to utilize the entire building for the retail sale of produce, or if not, the area of the building (gross square feet) proposed for such use, as well as the proposed use(s) for the rest of the building. If outdoor storage or other exterior uses are contemplated, a description should also be provided, including the uses and location. Additional review/approvals may be required depending on the proposed use(s).
3. The description of the proposed retail use should include probable inventory, operating hours, whether the use would be seasonal or year-round, number of employees, anticipated delivery schedule, and other information deemed relevant.
4. The project does not appear to include any proposed exterior construction. The Applicant should confirm.
5. The application is missing a survey and site plan, required for special permits per Zoning Code Section 472. The survey may be adapted to serve as the site plan provided it includes the requisite information (see Comments 4-6, below) and signature blocks for the Applicant and Planning Board Chair.

CODE COMPLIANCE

6. A retail business is permitted with a special permit in the HM district per Zoning Code Section 470 and Appendix A. Standards for special permits are provided in Section 473.
7. A special permit application must include a site plan and other descriptive materials as necessary. Per Zoning Code Section 472:

“[a]n application for a special permit shall be accompanied by plans and other descriptive matter sufficient to clearly portray the intentions of the applicant. Such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, and any other pertinent information that may be necessary to determine whether or not the proposed special use meets the requirements of this Local Law.”

Section 472 further states that the special permit plan must meet the site plan requirements under Section 483 but that the Planning Board has discretion to waive certain of those requirements. Section 483 reiterates the Planning Board’s discretion to waive certain site plan requirements for proposals that will have a minimal impact on surrounding properties. Pending a complete description of the proposed project and that no exterior construction is contemplated, the Planning Board may consider waiving selected site plan requirements.

At a minimum, the site plan should include all buildings and their dimensions, paved/impervious areas, building setbacks, parking area(s) and layout, traffic access/circulation, and landscaping. The Board may also request a Zoning Compliance Table. The Planning Board should discuss the applicability of site plan requirements to this application.

8. Per Zoning Code Appendix C, the minimum off-street parking for retail uses is one space per 100 SF of floor area plus one for each employee. Therefore, the required number of spaces will depend on the floor area to be used for retail, which the Applicant should provide. Note that, under Appendix C, if

the entire 8,200± SF is to be used for retail space, the minimum off-street parking would be 82 spaces plus one for each employee. However, Section 473.10, which provides the special permit standards, states that the parking area must be “of adequate size for the particular use” without reference to the parking schedule (Appendix C), which indicates that the Planning Board has discretion as to the number of required spaces and may not be bound by the minimum under Appendix C. The Applicant should describe the anticipated parking needs and the basis for the calculation. The Planning Board should assess the parking needs of the proposed use. If the existing parking area is to be used for the proposed use, the Applicant should confirm if parking will be adequate based on the size of the retail space proposed. If parking will need to be added or reconfigured, it should be clearly shown on the site plan.

9. The parking plan should include the number of parking spaces needed (see Comment 8), the number of spaces and layout that the existing parking area can accommodate, the entrance/exit drives, parking surface material, and landscaping. Per Zoning Code Section 473.10, parking area screening is required where there are adjoining residential uses. It appears that there is sufficient distance and natural growth between the subject property and the east-adjointing residence, based on Parcel Access. However, the Applicant should confirm whether there are adjoining residences that would require additional screening from the parking area.
10. Per the Town Wetland Map (NRI Map #12), wetlands and “probable wetlands” (shown as dotted area) cover most of the property (outlined in red). The building in question is located near the southwest corner of the parcel. Provided that no new construction, building expansion, or ground disturbance is proposed, a wetland permit and CAC referral would not be required. More information is required before a determination on wetland permit applicability can be made.



11. In the HM district, Zoning Code § 313.3 imposes a consistency requirement as follows: “Before approving any use subject to a Special Permit or Site Plan, the Planning Board must make a written finding that the proposed use, layout, and design will enhance the historic architectural fabric of Mabbettsville, and that it is consistent with the purposes and limitations stated in Subsections (1) and (2) above.”

In turn, Subsection (1) provides:

Purpose. The Town of Washington values the historic architectural character of its largest settlement, the hamlet of Mabbettsville, and wishes to encourage continued residential and commercial growth in this area while maintaining the historic architectural fabric that exists. It is the goal of the Town of Washington that development of the Mabbettsville hamlet should occur in a manner that follows the principles of traditional village planning, exemplified by the pattern of development found in the Village of Millbrook. To that end, the Hamlet Mixed-Use (HM) District is intended to be an area of mixed residential and non-residential uses in which historic

and residential character predominates, pedestrian activity is encouraged, and suburban “strip” shopping center development is discouraged.

The application as submitted would reactivate a vacant commercial building, thereby encouraging activity and growth consistent with the surrounding character. Therefore, pending further information, the application would be consistent with Subsection (1).

Subsection (2) relates to “new” nonresidential development. As the application as submitted would reuse an existing commercial structure and not create new nonresidential development, Subsection (2) would not apply, pending clarification on the existing/proposed use(s), including if there are any residential uses currently in the building that would be removed with the project.

The consistency requirement should be revisited at such time as the Planning Board may consider approval of the proposed project.

12. A public hearing is required for special permits per Zoning Code Section 475. The hearing may be set once the site plan has been submitted and accepted by the Planning Board as sufficiently complete.

REFERRALS

13. The subject parcel is within 500 feet of a State road (Route 44). This application is therefore subject to General Municipal Law (GML) 239-m, which requires referral to Dutchess County Planning. Under the terms of the Town’s Referral Reduction Agreement with Dutchess County, special permits are not exempt from the GML 239-m referral and review process. Therefore, referral is required. However, a site plan must be included in the County referral; therefore, once the site plan and other requested information has been submitted and accepted by the Planning Board, the application should be referred to the County.

SEQRA

14. Based on the submitted information, this application appears to be a Type II Action under the State Environmental Quality Review Act (SEQRA), Section 617.5(c)(18), which requires no environmental review. However, this classification cannot be made until a site plan is submitted and the scope of the project clarified.

RECOMMENDATION

At the August 6, 2024 Planning Board meeting, AKRF recommends that the Planning Board discuss the application and consultant comments, including the applicability of site plan requirements, and request that the Applicant provide a site plan that includes those applicable requirements, as well as the other information noted above.