

**TOWN OF BATAVIA PLANNING BOARD
PUBLIC HEARING, April 19, 2022 - 7:00 P.M.**

PRESENT: Chairman Kathy Jasinski, Paul McCullough, Don Partridge, Jonathan Long, Brooks Hawley, Brittany Witkop and Jennifer Zambito.

ALSO ATTENDING: Matthews Oates and Katherine Rowe both from Benderson Development, Brian Quinn Batavia Daily News, Mike Pettinella of The Batavian, Jerry Arena, Rod Ives Engineer for Napierala Consulting and Kelly Finch from O-At-Ka Milk Products, Steve Schultz, Jeff Radesi of Gallina, Alecia Kaus of Video News Service, Dan Lang Building Inspector, Sharon White Town Board Member and Secretary Kim McCullough.

ABSENT: Paul Marchese and Steve Tanner.

Alternate Member(s): Brittany Witkop and Jennifer Zambito will be participating in discussion and will be voting.

Public Hearing announcement was read regarding the application for a Special Use Permit by Benderson Development to construct two buildings to be used for retail/restaurants and 2 drive thru lanes with a total of 10,752 sq. ft.

Per the Chairman there will be no action taken on this tonight. Only taking the input from the public to help make decisions.

Chairman Kathleen Jasinski opened the floor to the public after a review of the project was given by Matthews Oates, Engineering Director and Katherine Rowe, Design Engineer, both are from Benderson Development. Two buildings will be built, this project will increase the green space and landscaping. There will also be new curbing put in. The utilities will be updated and new site lighting will be put in. Both of these buildings require a Special Use Permit for the drive thrus. Each drive thru will have sufficient stacking. They are just waiting on the traffic impact study. Ms. Rowe asked if there were any questions.

Jerry Arena – He wanted to know how many spaces are left, he stated that Kmart has 366 parking spaces and these 2 restaurants will take 54 parking spots. Mr. Arena wants to know how many spots that green space will take, how many spots do the actual buildings take, how many spots does the dumpsters take, snow removal take. Mr. Arena’s question was how many spaces will be left for the 16,000 sq. ft Kmart building. The parking lot is not vacant, the building is vacant it’s kinda like an oxymoron that the parking lot is vacant. Ms. Rowe stated at this time there are no plans at this time to fill this vacant building. Mr. Arena then asked if Benderson has a hardship. Dan Lang stepped in to answer the question about the hardship, this is being reviewed for the two front out parcels, should anything go into the Kmart building it will have to be applicable to the building and zoning codes set forth by the Town of Batavia. As far as this parking space requirement as per our code anything moving forward would have to comply with that code. Should they put in for a variance at that point yes it would be a self-created hardship. Dan stated he would be willing to go over all of Mr. Arena’s questions with him. The Chairman stated that this public hearing is on the drive thrus as that is what the special use permit is for.

Mr. Arena stated he loves Batavia and cares about its future, cares about his fellow citizens and about their safety and quality of life. The quality of life and safety of its constituents should be a priority for the Planning Board Members and he thinks this is a horrible idea. The traffic congestion will be like you are going through Tokyo or New York City. Its all about filling the Kmart building and we really don’t want to talk about that tonight. Required by law I got a notice of public hearing, thank you for the invitation and the mere fact I got one represents the fact that this special use permit will affect my property and my neighbors. He is flabbergasted that this would get this far. He wishes that every citizen could have got a notice like he got. Everyone not only in Batavia, Town of Batavia, the City of Batavia and Genesee County because it affects them when they do their holiday shopping. The people he has talked to logically didn’t know about the public hearing. He thanked the Daily News about publishing his Letter to the Editor. The people who he talks to, logically assume that these three new businesses, well two buildings and three new businesses, they logically assume when they hear the news that they are going to go into the old Kmart, would be the best spot for them and he does not feel sorry for Benderson because they can put them in the Kmart building. He doesn’t care how much it costs them and he doesn’t care if they’ve got to knock down part of Kmart down and build a drive-thru. He also stated that there are problems with the special use permit on several levels and he does not even know where to start. He is so frustrated with this. His main theme is at what point do we stop creating and compounding traffic flows on Lewiston and Park Road. Surrounded by traffic flow problems with no sidewalk, this area of Lewiston and Park Road will become more dangerous than ever for pedestrians, bicyclists and motorists. Mr. Arena stated he is afraid to go down Park Road at night because one day I’m a law biding citizen and somebody might

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just out at me from Batavia Downs and I'm sitting in my attorney's office facing a vehicle manslaughter charge. He also stated that the new entrance will come out onto Park Road – as if Park Road isn't already a problem. He stated traffic is non stop in front of the pizzeria. Mr. Arena brought up the eminent domain situation if you have other options, you'd think you'd want to use them, because I think there are a lot of other options. The biggest option is, why can't you fill the Kmart. Batavia is really sought after right now and Batavia is a hot commodity between Buffalo and Rochester. People will come into Batavia and you can put them where you don't have to give them a special use permit, you know there are places where they can go. What he has written down is the Town of Batavia has options available for development. One is the Kmart space, commercial property is available BJ's area, Forsythe has land on Route 5. Mr. Arena also stated that he has property for sale. The Chairman stated that a traffic study will be available to study within a week or two and that safety is an issue. Mr. Arena stated that safety is a big issue and what goes in must come out. Mr. Arena said he is prepared to take legal action to and stop the project. He will file an injunction, he has done this in the past.

Public Hearing was closed at 7:26 pm.

Respectfully submitted,

Kim McCullough
Secretary

Kathleen Jasinski
Chairman