Lori Gee called the meeting to order.

*Members present:* Teresa Golden, Steve Caswell, Michael O’Brien, Lori Gee, John Cutler, Craig Smith, alternate John Eickman; Michelle Robbins, Planner; Scott Bryant, Town Engineer; Tom Wood, Town Attorney; Joe Dennis, Morris Associates. Staff: Pam Baier, Clerk; Julie Beyer, Meeting Secretary. Jason Parakseva arrived at 7:45 PM.

The meeting began with the Pledge of Allegiance.

**CHAIRPERSON COMMENTS**

Ms. Gee announced that the next two dates were Tuesday, July 5th, 2016, and Tuesday, July 19th, 2016.

**APPROVAL OF MINUTES OF MEETINGS HELD:**

May 3, 2016

MOTION made by Michael O’Brien, seconded by Steve Caswell, to approve the minutes of the May 3, 2016 meeting. Voted and carried unanimously.

May 17, 2016

MOTION made by John Cutler, seconded by Craig Smith, to approve the minutes of the May 17, 2016 meeting. Voted and carried unanimously.

**MINOR MODIFICATIONS:**
Arthursburg Corners, Route 82

No one was present.

Engineer Bryant stated there were two items. The first was the retention basin behind the plaza. It originally called for a split rail type fence around the pond feature. The applicant has requested that they go with something less substantial like an animal control fence. There are no residents around the pond and it is a commercial site. Engineer Bryant stated he did not see a problem with this. The second item is that two propane fuel tanks showed up on the site and were not on the original plans. The applicant has agreed to provide screening to be recommended by Ms. Robbins and himself. Ms. Gee asked if either of those tanks were in the 100 foot right-of-way. Ms. Robbins stated she has not yet confirmed that. Ms. Gee stated that did need to be confirmed. Engineer Bryant stated that behind the plaza there was originally wood railing back by the swale. The applicant has put in a raised curb and has asked to waive the railing. Engineer Bryant stated he believed that was a reasonable request. Mr. Dennis stated the new requested fencing may be something called page wire. Engineer Bryant stated it would probably be similar to what is used at Beekman Country Club. Ms. Gee stated it would need to be a fencing option acceptable to the Town Engineer and Building Department. It would have to be 4 feet high. Engineer Bryant stated the propane tanks must meet the 100 foot setback requirement and must meet the screening satisfaction of the Town Planner. Mr. Dennis stated the tanks are 500 gallon size so combined they do not meet the bulk storage threshold and they already have bollards. It might be good to enclose them for safety anyway. Engineer Bryant stated they also replaced the deficient
handicap parking ramps.

Ms. Gee asked if there were any questions or comments from the Board. Mr. O'Brien asked what was wrong with the fence that was there now. Engineer Bryant said there was no fence now.

MOTION made by Craig Smith, seconded by Michael O'Brien, to accept the fence change with the fence being acceptable to the Town Engineer from a split rail fence around the retention pond to the rear of the property; to accept the two 500 gallon tanks on-site as long as they meet all setback and building/fire code requirements and with screening acceptable to the Town Planner; and to accept the removal of the wood guardrail in the rear of the parking lot. Voted and carried unanimously.

MINOR MODIFICATIONS:

Villa Nigrelli, Carpenter Road

Frank Nigrelli was present.

Mr. Nigrelli stated there is currently a 10 x 10 shed there and they are looking to replace it with a 12 x 28 shed. Ms. Gee asked if they would be losing any parking spaces. Mr. Nigrelli said no. Ms. Gee asked if this needed ARB approval. Ms. Robbins stated this is a business use in a residential district and that is not a current requirement.

Ms. Gee asked if there were any questions or comments from Board members. Mr. O'Brien
asked if the new shed was going in the same space as the existing shed and Mr. Nigrelli said yes. Engineer Bryant asked what was happening with the existing shed and Mr. Nigrelli stated it would be removed.

MOTION made by John Cutler, seconded by Steve Caswell, to accept the removal of the existing shed and replacing it with a 12’ x 28' shed as marked on the site plan. Voted and carried unanimously.

DECISIONS:

Brewmation Lot Line Realignment and Site Plan, Donovan Drive

Mike Gillespie was present.

Mr. Gillespie stated they had the Public hearing and one of the large items discussed was the storm water plan. He stated Mr. Dennis has evaluated that. Ms. Gee asked if they had a memo back from Mr. Dennis and Mr. Gillespie said yes and they are working through it. Ms. Gee asked Mr. Dennis if he expected any significant changes to the SWPPP. Mr. Dennis said no. Ms. Gee asked if the applicant had ARB approval and Mr. Gillespie stated they received that a few months ago.

Ms. Gee asked if the applicant had reviewed the comments from the Fire Advisory Board. Mr. Gillespie stated that they had requested the building have sprinklers. The building is made of
noncombustible materials and a sprinkler system is not required as per New York State Building Code. Ms. Gee asked if there would be light manufacturing on the site. Mr. Gillespie stated there was some assembly on the site but no manufacturing. There are no hazardous materials or chemicals.

Ms. Gee asked if there were any questions or comments from the Board. There were none.

Ms. Gee asked if there were any questions or comments from the Town Professionals. Mr. Dennis stated they do need to review the comments on the SWPPP. He does not believe there are any insurmountable items.

Engineer Bryant asked if they were using the on-site pond or is everything being contained on-site. Mr. Gillespie stated it was being contained on-site.

Ms. Gee stated there was a Negative Declaration. The name of the action is Brewmation Site Plan and Lot Line Realignment. This is for development of a vacant lot in the I-1 zone which will consist of a 2-story 9,600 square foot building and 13 associated parking spaces. This is an unlisted SEQR action. A Short Form EAF and Storm Water Pollution Prevention Plan were analyzed in making this negative declaration. The Board identified the following environmental issues as relevant:

1. Storm Water Quality Control and Pollution Prevention
2. Traffic and Circulation

3. Wetland Disturbance

4. Visual and Aesthetics

Based on a review of 6NYCRR 617.7, there appear to be no other significant adverse environmental impacts.

MOTION made by John Cutler, seconded by Michael O'Brien, to approve this Negative Declaration. Voted and carried unanimously.

RESOLUTION OF FINAL SITE PLAN APPROVAL

NAME OF SITE PLAN: Brewmation Site Plan and Lot Line Realignment
NAME OF APPLICANT: KM Unlimited Realty, LLC
LOCATION: Donovan Drive
GRID NO.: 6455-00-330505/330484

Resolution Offered by Planning Board Member John Cutler

WHEREAS, the applicant has applied for a site plan approval to include a 5600 square foot footprint building with a total of 9600 square feet on a 1.35 acre lot; and

WHEREAS, the action is considered to be an unlisted action under SEQR, for which coordinated review was not undertaken; and

WHEREAS, the Planning Board held a Public Hearing on May 3, 2016 and adopted a Negative Declaration on June 21, 2016; and

WHEREAS, the Applicant has now submitted a final site plan and further finds that the application meets the Town’s requirements for final site plan approval, subject to the conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board hereby issues final site plan approval for the above project as represented on a map entitled “Brewmation” prepared
by M. Gillespie and Associates dated December 30, 2015 and revised through April 17, 2016; and

BE IT FURTHER RESOLVED, that this approval is subject to the following conditions, which must be completed before the plan is signed by the Planning Board Chair:

2. The Plat will contain the written approval of the DCHD before it is signed by the Chairperson.
3. The final SWPPP should be updated based on comments in the Town Engineers letter dated June 20, 2016.
4. All deeds and easements will be approved by the Town Attorney.
5. An inspection fee for the town’s review of the proposed improvements will be based on an engineer’s estimate as approved by the Town Engineer.
6. A Landscape and Screening plan shall be approved by the Town Planner and a Maintenance Agreement shall be provided in a form that is acceptable to the Town Attorney.
7. The final lighting plan will be approved by the Town Planner.
8. Drainage and pavement installation shall be per Town Highway Specifications, where applicable.

BE IT FURTHER RESOLVED, that within five (5) business days of the adoption of this Resolution, the Chair or other duly authorized member of the Planning Board shall cause a copy of this Resolution to be file with the Town Clerk and a copy sent to the Applicant/Owner.

Resolution Seconded by Planning Board Member Michael O’Brien

The votes were as follows:

Board Member Jason Paraskeva Absent
Board Member Michael O’Brien Aye
ADJOURNED PUBLIC HEARINGS:

Fakhouri, 2 lots, Kensington Drive/Dale Road

Ernie Martin was present.

MOTION made by Michael O'Brien, seconded by Craig Smith, to re-open the Public Hearing. Voted and carried unanimously.

Ms. Gee stated the last time they saw this they were expecting to get revised plans signed by the DEC prior to this meeting. She stated the Town Planning Office received that at approximately 11 AM this morning. The plan did not have the second house placed on it. Mr. Martin stated that subsequent to the last meeting, they met with the DEC and a representative from the Town on the site and get a final check. They reviewed it and took measurements in the field. The applicant then prepared a map which DEC did sign. Since then they have worked on their plan but it has not been submitted. It does show the second lot to be developed with the driveway, the house,
the well, and the septic. That plan is not in the office. Ms. Gee stated they need to have the information into the office in enough time for the board and their professionals as well as the public to review these prior to the meeting. Mr. Martin stated he thought the only concern from the last meeting was the validity of the DEC map. Ms. Gee stated she was under the impression that there were changes made to the line after that meeting. Attorney Wood stated that the applicant did meet with the DEC and had the map redone. They do not have the subdivision superimposed on the map that was redone. The Town has no idea of knowing what changes could have been made by the DEC, if any. Nobody had the chance to look at it. He stated the map being presented is a map no one at the town has seen. Ms. Gee stated she cannot emphasize enough or be clearer that they need this information prior to the meeting. The Board and their professionals all review it and it needs to be in the Planning Office for the public when they are in the midst of a Public Hearing. They have to be able to review it also. She stated this would need to be adjourned again as they do not have final plans in the office. She asked about a straight line going down the middle of the plan. Mr. Martin stated that line was the old property line and was inadvertently put on this map. Mr. O'Brien asked if they moved the property line due to the redrawing of the flags. Mr. Martin stated they moved it 10 to 15 feet. He believes that one line on the map shows the 25 foot offset. There are approximately 33 feet to the property line from the existing house and 33 feet from the property line to the proposed house.

Ms. Gee asked if there were any other changes to the property lines or what has been done to the proposed house. Mr. Martin stated the proposed house has been moved further to the south. Ms.
Gee asked if they are proposing some sort of permit to allow mowing in the section of buffer that bumps out into the yard area. Mr. Martin stated they would be required to get a permit for the new well that will serve the existing house as the well is located in a buffer area. Part of the permit process will require a split rail fence on the side of the property. Ms. Gee asked if that would outline the wetland buffer as they are required to delineate the wetland buffer with some type of physical barrier. Mr. Martin stated they would propose a smooth fence line. Ms. Gee stated that needs to be shown on the plan. Mr. O'Brien asked what changed to have the lines redrawn. Mr. Martin stated when DEC came out this year they delineated another area. The third time they came out they found another small area that was approximately 25’ x 5’ wide that they claim is wetland. It had not been picked up on their prior visits. Ms. Gee asked if they would smooth the buffer line. Ms. Gee stated the wetland line and the buffer moved in a few places. Ms. Golden asked what the distance was between the buffer and the proposed house. Mr. Martin said about 25 feet. They have also changed the geometric shape of the house. He stated the offset used to be 40 feet and they made it 33 feet. (*Mr. Paraskeva arrived.*)

Ms. Gee asked if there were any questions or comments from Board members. Mr. O'Brien asked if this lot was originally part of the existing property and why it had never been developed originally. Mr. Martin stated he did not know as he did not do that work.

Ms. Gee asked if there were any questions or comments from the Town Professionals. Mr. Dennis stated that they did check the original filed map and it did not state anything as to why
that lot was left larger. There were no specific restrictions other than requiring Health Department approval and Planning Board approval to further subdivide. There was just a drainage easement listed in the corner. Mr. Martin stated that the subdivision map from the 80s did not have the degree of detail that you have today. For the easement they have kept the 40 foot with and actually made it wider in some places. It is much more defined than on the prior map.

Ms. Golden stated that originally both lots were 2.113 acres in size. She asked if they still stay the same. Mr. Martin said the original lot is now a little smaller as the line moved towards that house. Mr. O'Brien asked if this had been one property for the original subdivision. Mr. Martin stated that the subdivision map showed a prior division.

Ms. Gee asked if there was anyone from the public to speak for or against this application. There was no one. She stated that the Board needs time to review the materials that Mr. Martin presented. He also needs to provide the buffer detail and how they are going to delineate the buffer for this residence. That information needs to be to the Planning Board with sufficient time for both the board members and the professionals to review it.

MOTION made by John Cutler, seconded by Craig Smith, to adjourn the Public Hearing to August 2, 2016. Voted and carried unanimously.

ADJOURNED PUBLIC HEARING:

Stewart Scott, 6 lot, Warren Farm Road

Ernie Martin was present.
MOTION made by Michael O'Brien, seconded by Craig Smith, to re-open the Public Hearing. Voted and carried unanimously.

Ms. Gee asked if they made any changes to plans or submitted anything new to the Board. Mr. Martin said no. She stated they received a letter on the day of the last adjournment to provide some examples of the wetland mitigation plans that are being managed by the town. She stated they could find no record of any examples. Mr. Martin said Mr. Nowicki said there were two projects in Town, one is completed. He mentioned Four Corners and the one right behind the Hamlet. Mr. Nowicki said he is doing the annual reports. The consultants said they had never heard about that, so after the meeting Mr. Martin asked Mr. Nowicki again and that is what he said. Ms. Gee asked if Mr. Martin had asked for copies or what the nature of the mitigation was. Ms. Robbins has reviewed the records and resolutions and plans and can find no examples of that. Mr. Martin said his whole point was that this is not something new. Engineer Bryant stated Mr. Martin is saying that based on Mr. Nowicki's representations were of projects that didn’t require such mitigations. He suggested that Mr. Martin bring Mr. Nowicki to a meeting to explain it. Mr. O'Brien stated he has no idea what this would look like and how it would be passed onto the homeowner. Mr. Martin had told him to go read these other applications but there is nothing in them to be found. Engineer Bryant stated until it can be proven otherwise, they don't exist. Mr. Martin stated that if he could get the information it would have to be with the approval of the owner to release information. Ms. Gee stated from the Town's perspective they cannot find anything similar to this. Mr. Martin said he would talk to him again. He stated it
may be a condition of a permit. Ms. Gee asked if permits could be F.O.I.L.ed. Ms. Robbins stated she believed they could. It is possible it might not have been part of the SEQRA. Mr. O'Brien stated he is asking how frequently they come out to see the site, what are the conditions and what would happen if it fails, what if the new vegetation does not take root and what would happen then. Ms. Golden stated they do not know the potential bill to the homeowner. Ms. Robbins stated that typically the permitting agency will require some sort of mitigation plan and is very detailed as to the types of plants and the actions to be taken. She had a copy that she could supply to the Board for their review. She stated one project was for a Homeowners Association and they had to monitor it for five years during construction and post-construction for a few years. They did have to pull the bond on the developer because they did not fulfill their requirements. Mr. O'Brien asked how big the bond was and Ms. Robbins stated it probably depended on the type of vegetation going in and what else was entailed. Mr. Paraskeva asked if the bond was with the developer and not the homeowner and Ms. Robbins said it was with the developer.

Mr. O'Brien asked if they ever got to the bottom of the fill issues. He asked if there were any records that showed how much fill was brought in over what time frame. He stated from looking at the piles they looked like onetime events. It is his understanding that you are allowed gradual filling over a certain amount of time. He asked if there was any way to know what fill was brought in when and if there were any records. Mr. Martin stated he could not speak to when it was done. He stated that part of their response to the Town was by doing calculations and
reviewing Google maps to help with some time frames. It does appear that fill was brought in but it would probably comply due to the amount of time it took to do it. Mr. Dennis stated the requirement is a certain number of yards per year per lot. As a result of Morris's comments he did supply some calculations and details. There are two lots there. It looks like there was 1,777 cubic yards of fill brought in. It breaks down to 375 yards allowed per year over possibly 4.7 years. Based on aerial mapping it looks like the fill was taken in over a period of five years. Ms. Gee asked if the fill was brought to one lot or both lots. Mr. Dennis stated it was looked at as a total and then broken down by year. Engineer Bryant stated he believes multiple lots only would apply if the lots were already approved as well as approved septic tanks. These are not approved lots for septic tanks at this point. If these pads were brought in without prior approval and these were not already approved septic pads, they are not exempt. Mr. O'Brien asked if there were any records of fill going in and out. Attorney Wood stated that there is more fill in one lot than the other which means one would be in violation and one is not. Ms. Robbins stated, from the pictures, that fill was brought in and done in pads. Attorney Wood stated even if it was brought in at 375 cubic yards a year there is more fill in one lot than on the other so one lot exceeds 375 per year. Ms. Robbins stated it appears that it is clear that the fill was placed in the hopes of getting a specific number of lots. She can go back and check in her notes for the length of time during which it could have it happened. Mr. O'Brien asked if the issue of fill was closed. Attorney Wood stated that the applicant is trying to convince the Board that they should adopt a Negative Declaration of his SEQRA based on his information. That is a burden that the applicant has to show the Board that there will not be any impact that is not mitigated by what is proposed.
Month after month there are several different factors that seem to be troubling the Board being able to reach that conclusion. He stated that the fill was one of them. The issue of creating new wetlands that have to be maintained for another agency’s satisfaction is another struggle. He believes there are other issues with respect to being under the SWPPP requirements. He believes that the struggle the board is having is that this plan does not seem to be giving them the feeling that a negative declaration is appropriate and that there may need to be some further review.

There are still issues and impacts to be addressed. Mr. Martin stated he thought the fill issue was done. It's the first time he's hearing about it in four to five months. He stated they provided a response months ago. Mr. O'Brien asked if there was a pathway that this could have been done in accordance with the laws of the time. Engineer Bryant stated if they took a five-year period of time in theory they could have been in compliance for the 375 cubic yards per year, if they did not put any in the wetlands. The other issue is what existed before they placed the fill. Engineer Bryant stated they have talked a few times regarding representations on the plans for access for testing wells. Right now they are at 4.92 acres of disturbance. There have been no adjustments made for access wells. He stated that in his professional opinion what is represented on the plan is not feasible. He does not believe they should go any further until those adjustments are made. If they are over the 5 acres they will have to deal with that. Mr. Martin asked if Engineer Bryant felt the disruption figures were not correct. Engineer Bryant said that it is based on the representation that he could get a well rigged down a 5 foot path with multiple offshoots for footing drains, well lines, etc. He does not believe any machine will fit down that narrow of a path. He knows it is not feasible. He stated he had asked Mr. Martin twice to make those
adjustments and they have not yet been done. Mr. Martin stated they could have movable pads. Engineer Bryant said they will not be policing movable pads. They are going to follow the conventional methods. If somebody has to go back five years from now and pull a well pump they are not going to bring movable pads. It needs regular, normal access. He stated he cannot think of one project where that has been accepted.

Mr. Martin stated he believes there are three issues to deal with. Mr. Caswell said it is possible that the fill could have happened over a five-year period. Ms. Robbins stated it is very difficult to estimate, based on an aerial photograph, as to exactly how much fill was brought in. Engineer Bryant does not believe they can get to that level of detail from an aerial photograph. It could possibly have been in conformance but it also could possibly not have been. Mr. O'Brien asked if Mr. Martin knew what years any of that happened and Mr. Martin said he was not involved for the project at that point. Mr. Caswell stated they cannot prove any one year did not go over but it sounds like that over a period of time of at least five years it could have conformed. Ms. Gee asked if Ms. Robbins could state whether there was any specific violation of any Town Law that could be easily documented. Ms. Robbins stated nothing that they could prove. They don't know where the original wetlands were and if soil was put in those areas, or how much fill was brought in at any given time. Attorney Wood stated that even if you discount all of that, there is more fill on one lot than the other so one lot is in excess of what would be allowed for that time period. If they take the total fill of the whole site and use it as two lots one has a lesser amount and the other lot has a greater amount than the allowable 375 cubic yards. Mr. O'Brien asked if
permitting or records would have been required at that point. Attorney Wood said no. The ordinance says that you can bring in up to 375 cubic yards for the intent but the intent is unclear. The intent seems to have been on a developed lot for landscaping purposes. Mr. O'Brien stated he feels if there is a plausible route than he does not have an issue. Mr. Dennis stated that he and Ms. Robbins can look into this further to double check how they came up with their numbers. Ms. Gee stated that in the absence of something specific, there is a plausible route. She stated it is an imprecise science and they error on the side of the applicant when they look at something like this. Mr. Dennis and Ms. Robbins will take one last look at it and if there is any issue or question they will reach out to Mr. Martin within the next few days. Mr. Martin stated that part of the plan is to have those piles mitigated and moved. Some will be within septic areas and some will go where they belong. It will be cleaned up properly. Ms. Gee asked where they were planning to move soil to and if it was all counted into their disturbance plan. Mr. Martin said yes.

Ms. Gee asked if there were any other questions or comments from Board members or professionals and there were none. She asked if there was anyone from the audience to speak for or against this application. There was no one.

Ms. Gee stated that Ms. Robbins and Mr. Dennis will take one last look at the fill issues. Absent any specific issue they will assume that it is closed out. In regards to the wetland mitigation and ongoing maintenance is on Mr. Martin if he wants to bring his professional in to supply additional information or provide more specifics for the town to understand this. Attorney Wood
stated that both of the projects that he cited are still ongoing developments and the original developers are still on site. That is far different than a six lot subdivision that will be here and there. Mr. Caswell stated that the entire area is on one lot and will be one owner’s responsibility. Ms. Gee stated that unless the applicant wants to provide information about other projects or a sample report the Board probably has enough information in their record to make a decision on it. She stated the applicant also needs more reasonable figures on the limits of disturbance to make sure they are under the 5 acres. Attorney Wood asked if there was an alternate design or layout that could be considered that would lessen these particular concerns. That would be something the applicant would have to propose to the Board. Ms. Gee asked if there was a minimum recommended travel way or if it depended on the equipment needed for each improvement. Engineer Bryant stated that he would not argue with showing 10 feet wide access. He also needs to have the proper topography to show what kind of grading is required.

MOTION made by Jason Paraskeva, seconded by Craig Smith, to adjourn the Public Hearing to the August 2, 2016 meeting. Voted and carried unanimously.

DISCUSSION:

Attorney Wood stated that they received a letter today regarding a change to New York State law with respect to fireworks. If a county opts to join into the state option a person who sells sparklers is exempt from any local licensing. There was an application several weeks ago from a company that wishes to do a temporary tent at the Unity Plaza. They were misdirected and told
to apply for a Peddlers Permits. They are licensed by the state to sell sparklers and as such the Town is prohibited from imposing any other licensing requirements or to charge them any fees for the sales. They do not need a Peddlers Permit. The applicant has sent in a letter requesting that from now until July 5 they be allowed to have a temporary tent at Unity Plaza behind Mahopac Bank. The property owner has attached their consent to allow this. It is for the sale of sparkling devices. Melissa Goduti stated they are doing a nonprofit fundraiser. A teacher from Rhinebeck High School is doing this to raise funds for kids that don't have parents and cannot go to prom. It is for ground-based sparklers and sparkling devices, nothing that goes in the air or explodes. It is whatever the state law allows. They do have a local vendor set to put up the tent tomorrow if this gets approved. They abide by NFPA 1124. They operate out of 48 states and they have put up approximately 7,000 tents in two weeks. She will be staying in town overnight tonight and is more than willing to meet with the Building Department in the morning to see if they need any permits in regards to the size of the tent that they are putting up.

MOTION made by Michael O'Brien, seconded by Steve Caswell, to allow a temporary tent to be erected for the sale of sparkling devices in Unity Plaza, subject to any permitting required by State Law through the Building Department. Voted and carried unanimously.

ADJOURNMENT

MOTION made by Michael O'Brien, seconded by John Cutler, to adjourn the Planning Board meeting. Voted and carried unanimously.

Respectfully submitted: