

CATTARAUGUS COUNTY PLANNING BOARD

October 30, 2003

County Center

Little Valley, NY

PLANNING BOARD MEMBERS PRESENT:

Paul R. Bishop, Chairman

William Sprague, Vice Chairman

Tina Abrams

Kameron Brooks

Charles Couture

Florence Fuller

Robert Keis

Donald Patterson

James Rich

David Rivet

PLANNING BOARD MEMBERS ABSENT:

Ann Padlo, Secretary

Paul Mager, Assistant Secretary Jack Berger

PLANNING STAFF PRESENT:

Thomas M. Livak, Director

Terry H. Martin, Chief Planner

David P. Paoletta, Planner

Margaret E. Puszcz, Stenographic Secretary

GUESTS:

Crystal Abers, Chairwoman Development & Agriculture Committee

Joan Petzen, Farmland Protection Board & Cornell Coop Ext.

Mike Zaprowski, Chairman Salamanca Planning Commission

Philip Jimerson, Cloud & Co.

Michael W. Pufpaff, DECI, Jamestown

William and Cindy Skokum, Salamanca Zoning Issue

Kathy Kellogg, Buffalo News

APPROVAL OF MINUTES

Donald Patterson moved with a second from Kameron Brooks to approve the minutes of the September 25, 2003 meeting as submitted. Carried.

ZONING REFERRALS

City of Salamanca – Site Plan Review – 636 Wildwood Avenue

Terry Martin reported that the City of Salamanca has referred a Site Plan Review for 636 Wildwood Avenue for the construction of one gas distribution island with two gasoline pumps on the front parking lot of the existing convenience store. An area variance was granted in 1998 to add gas pumps in front of the existing store. The Zoning Ordinance requires a 35' setback, and the variance reduced this to 12'. The minutes of the meeting granting this variance gives no basis for the variance. This variance sets a precedent for how the

City's Zoning Ordinance is enforced.

Mr. Martin stated that several issues need further review:

- 1) public safety issue with regard to vehicular traffic flow and school bus route which discharges students in front of the current convenience store;
- 2) the driveway from the side street (Prospect Street) to the convenience store does not currently comply with the new ordinance regulations for gas stations; a legal opinion is needed on whether or not this driveway is grandfathered or whether the driveway needs to be moved to comply with new regulations;
- 3) landscaping and buffering needed between this business and surrounding homes;
- 4) the portable sign that is sitting in the front parking area will block gas supply trucks and should be removed for safety and traffic flow.

Michael Pufpaff developer for Cloud and Company stated that they had met with several officials concerning the proposed addition of gas pumps to the convenience store.

Mike Zaprowski, Chairman, City of Salamanca Planning Commission stated that they knew that it was a tight situation but the variance had been granted six years ago. The building will remain the same as a convenience store and liquor store. They did discuss buffers: back line either fence or shrubbery. The curbing in the front of the building has deteriorated to the point that traffic just pulls in anywhere. The State has determined that the maintenance falls under the City of Salamanca. The City Planning Commission wished to control the entrance and parking. Owners came up with planter boxes to control the ingress, egress and parking. The City held a public hearing and received a petition with 16 signatures of neighbors against the addition of gas pumps.

Cindy Skokum, who owns a home near this business, stated that there are 13 homes surrounding the convenience store. Some of the neighbors concerns are: safety, school buses, children, no traffic light, noise and fumes, need for buffering, and proof that the value of their properties will not be lowered because of the convenience store adding gas pumps.

Philip Jimerson, Cloud & Co. stated that it was the dream of his grandfather to have a gas station there as well as the convenience and liquor store and that is why his grandfather sought the variance six years ago. However, circumstances prevented his grandfather from fulfilling his dream. Mr. Jimerson is now seeking to fulfill his grandfather's dream now.

Michael Pufpaff requested and was granted time to address some of the issues raised.

Terry Martin stated that this appears to be more of a preliminary site plan rather than a final site plan where issues have been resolved prior to being sent to the County Planning Board. He asked Mike Zaprowski if the City of Salamanca wanted do withdraw this referral so that the City of Salamanca Planning commission can re-examine the issues raised.

Mr. Jimerson stated that he is concerned about the safety, traffic, driveway and buffering issues and is willing to work with the neighbors and City to resolve these issues.

Upon considerable discussion on all of the issues raised, Mike Zaprowski, Chairman of the City of Salamanca Planning Commission withdrew the referred Site Plan Review and stated that the City will resubmit it the County Planning Board once these issues have been resolved.

Town of Allegany – Area Variances – 3234 W. State Road (Microtel)

Terry Martin reported that the Town of Allegany has referred two area variances to allow a proposed hotel (Microtel) to come to within 45 feet of the front property line, and the canopy over the entrance to come to within 39.9 feet of the front property line, where a 50 foot setback is required by the Town's zoning ordinance at 3234 W. State Road (Rt. 417).

Mr. Martin stated that this particular project had been referred to the County Planning Board previously and had been approved with modification. The Town of Allegany had then denied the project. It went to court and the court overruled the Town of Allegany but gave the Town the ability to request changes to the Site Plan. The Town then hired AKRF to help them to define changes to the Site Plan, including the reduction in size of the building from three to two stories. The Town Planning Board then stated that this project does not conform to the Rt. 417 Study but issued the Special Use Permit with nine conditions. The developer made the requested changes and when applying for the Building Permit to start work on site preparation, found that the original survey had an error in the width of Rt. 417 ROW. They now require a 5' variance for the building and a 10.1' variance for the canopy. Staff recommendation is approval.

James Rich moved with a second from Charles Couture to approve the referred request from the Town of Allegany for two area variances for 3234 W. State Road (Microtel). Carried.

Village of Delevan – Zoning Text Amendment – Zoning Permit Fees

David Paoletta reported that the Village of Delevan has referred a zoning text amendment to amend Article XI, Section 11.6 Zoning Permit Fees in the Village's zoning ordinance. However, the Village adopted the amendment prior to referring it to the County Planning Board. After discussion with Counsel from the NYS Department of State, staff recommendation is approval with modification. The modification, as a condition of approval would be to the process followed by the Village of Delevan in enacting Local Law No. 2 of 2003, and not the zoning amendment. The Village of Delevan should: 1) Rescind their resolution of July 15, 2003, which enacted Local Law No. 2 of 2003; and 2) Adopt a resolution enacting the Law after receiving notification of County Planning Board action. This will streamline the process and not require the Village to send it back to the County next month.

Donald Patterson moved with a second from Kameron Brooks to approve with modification the Village of Delevan's zoning text amendment. The modification, as a condition of approval, would be to the process followed by the Village of Delevan in enacting Local Law No. 2 of 2003, and not the zoning amendment. The Village of Delevan should: 1) Rescind their resolution of July 15, 2003, which enacted Local Law No. 2 of 2003; and 2) Adopt a resolution enacting the Law after receiving notification of County Planning Board action. Carried.

INTERGOVERNMENTAL REVIEWS

David Paoletta reported that Intergovernmental Review # STW#03.040 has been received. Staff recommendation is received, reviewed, no comment. The Board concurred.

CHAIRMAN'S REPORT

November/December Meetings – Chairman Bishop stated that since Thanksgiving and Christmas each fall on the last Thursday of November and December, the Planning Board's regular meeting dates, he would suggest that these two meetings be combined and held either on December 2nd or 4th. Upon discussion, it was

agreed to hold the combined November/December meeting on December 2nd. Chairman Bishop requested that staff so inform municipal planning officials and the press.

Randall Arendt Workshop – November 24th

Chairman Bishop reported that a workshop featuring Randall Arendt has been arranged for the evening of November 24th at Holiday Valley Resort, Ellicottville, New York. He encourage everyone to attend this worthwhile workshop.

Terry Martin reported that Randall Arendt will be working with the Village of Delevan officials during the day of November 24th, prior to giving the workshop that evening.

William Sprague asked that the Town of Yorkshire officials be invited to participate in any meetings that the Village of Delevan holds with Randall Arendt. Terry Martin agreed to bring this to the attention of village officials.

MEMBER'S FORUM – No issues raised by the members.

DIRECTOR'S REPORT

Thomas Livak displayed the new County Tourism Map, which has been prepared by the Department using GIS mapping software. He indicated that one of the new items on the map is the inclusion of snowmobile trails. He asked that the Planning Board members take a few moments to review the map for accuracy. The Board members were very impressed with the map.

Thomas Livak also reported that the Farmersville Task Force has been activated now that the NYSDEC has issued the Notice of Completion of Application Process for Permitting of Integrated Waste Systems landfill project in Farmersville. Public hearings will now be held for public comment. The County's Environmental Attorney, Mike Gerard will become very active again on this project.

STW REPORT

Robert Keis reported that the Southern Tier West Board was given a presentation on the new DiscoverSouthwestNY.com web site. The site was built as a marketing tool for the three county region and features information for businesses, tourists, and citizens and includes newly developed virtual tour technology built by the PixEarth Corporation of Fort Collins, CO. The site is the culmination of efforts put forth by the three counties, Southern Tier West, private business, and other special interest groups. Currently the site is 90% complete, and should be finished within the next month. At that time an intensive marketing campaign will be undertaken to promote the site to local citizens, potential tourists, former citizens that have left the area, and businesses looking to start-up or relocate.

Mr. Keis also reported that the NYS Department of State presented the Preliminary Draft of the New York State Appalachian Regional Investment Package for fiscal year 2004 along with an overview of the amount of ARC funds received in FY2003 by the State and Southern Tier West and the status as to FY2004 funds. The State's Investment Package included four projects recommended for funding from the Southern Tier West Region, which are virtually assured if all technical questions and ARC Code Requirements are addressed. Three projects were listed as standby projects, which are next in line for funding consideration should adequate funds become available after the recommended projects are assisted (Cattaraugus County's Village Infrastructure Inventory Project is one of the standby projects).

Mr. Keis reported that Southern Tier West is working with NYS DEC to provide Stormwater Phase II

Outreach. This contract is referred to as the “Baseline” contract and the work plan is designed in two - - 2 year increments. Southern Tier West will assist municipalities in developing a Stormwater pollution prevention plan, assist DEC in identifying and implementing improvements to the program, coordinate information between the county water quality committees, use GIS to map water resources and use simulation models to demonstrate effects of proposed construction, landscaping, etc. The primary focus of this contract will be the Stormwater outreach in the form of fieldwork, workshops, public awareness programs, and working with municipalities to recognize the importance of developing a Stormwater pollution prevention plan.

OTHER REPORTS

Gowanda/Zoar Valley Meeting

Terry Martin reported that on behalf of County Chairman, Gerard Fitzpatrick, Crystal Abers, Chairwoman of the Development and Agriculture Committee of the Cattaraugus County Legislature, presented Cattaraugus County’s proposal to protect the Cattaraugus Creek Watershed and Zoar Valley at the public scoping session for the New York State Department of Environmental Conservation’s (NYSDEC) Management Plan for the Zoar Valley Multiple Use area, held at the American Legion in Gowanda on October 21st.

This Cattaraugus County proposal is receiving favorable responses from a variety of stakeholders in the watershed. State and federal agencies have encouraged the County to apply for state and federal grants. Mr. Martin listed out the following objectives:

“We Need Better Land Use Planning. The County proposes to develop a watershed protection plan that incorporates Smart Growth and Quality Communities concepts and techniques and not just water quality techniques and regulatory controls. The County believes that assets such as Cattaraugus Creek and Zoar Valley will not be preserved successfully in the long run by using only traditional water quality techniques and top down regulatory controls. This means that the County wants a more effective effort that includes newer land use concepts and techniques around the Watershed and Zoar Valley.

“We Need Habitat Protection. The County proposes to develop a habitat preservation program for Zoar Valley, working in cooperation with the NYSDEC and other agencies, with municipal and county governments, and with private property owners. The County believes that Zoar Valley is an irreplaceable asset, and that it will become one of Cattaraugus County’s most successful and enduring attractions in the 21st Century if we handle it right.

“We Need to Preserve Farmland and Open Space. The County proposes to develop a Cattaraugus County Farmland Protection Plan that is focused on preservation of farmland within the Cattaraugus Creek Watershed. The County is exploring the methods for purchasing development rights for farmland abutting the Zoar Valley and along the entire southern edge of the Watershed, which will help the farming community.

“The County wants the NYSDEC to work with them on these programs. This proposal will take many years to achieve, but the County wants to get started now. By working together, the County and the NYSDEC will achieve success regarding the protection and safe use of the Cattaraugus Creek Watershed and Zoar Valley. By not working together, we will continue to see the piece-meal degradation of the valley.”

CORRESPONDENCE

The following correspondence was received:

Kim T. Blot, Director Agricultural Protection and Developmental Services – Landowner Proposals for

Inclusion of Viable Agricultural Land in Existing Certified Agricultural District – 2003 Legislation – amended “to allow the legislative body of any county containing a certified agricultural district to designate an annual thirty-day period within which a land owner may submit to such body a request for inclusion of land which is predominantly viable agricultural land prior to the districts established review period”.

Notices of Final Actions:

Town of East Otto – Special Use Permit to construct a hunting cabin at 8869 Reed Hill approved.

A TRIBUTE TO THE MEMORY OF KENNETH P. KYSOR - 1914 - 2003

Terry Martin presented a tribute in memory of Kenneth P. Kysor, former Cattaraugus County Historian and friend of county planning, who passed away in Fairfax, Virginia on September 14, 2003 at the age of 89 (attached and incorporated into these minutes).

ADJOURNMENT IN MEMORY OF JACK L. ELLIS AND LATHAM B. WEBER

Chairman Bishop stated that during the past month, we have lost two past members of the Board who had given generously of their time and knowledge for many years to this Board and the residents of Cattaraugus County.

Donald Patterson remembered **Jack L. Ellis**. He stated that Jack was very helpful in the early years of the Planning Board's existence and when they were working with the Corps of Engineers to establish Onoville. He took the Planning Board on tours of the river bottom. His vast knowledge of the County was very helpful to the Board's meetings. He was also very helpful to Jack Berger and Kurt Bauer during the creation of the Marina.

Jack Berger agreed that Jack Ellis had been very helpful during the creation of the Marina and was an excellent source of knowledge about the County to the Planning Board.

Donald Patterson remembered Latham B. Weber as his predecessor as Chairman of the Planning Board for six years. He stated that Latham was very knowledgeable of the County and was a good leader for the Planning Board.

Jack Berger remembered **Latham Weber** and stated that he was very impressed with the way Latham ran the newspaper. He always wanted at least one personal story for the paper every day.

*Jack Berger moved with a second from Donald Patterson that the October 30, 2003 meeting of the Cattaraugus County Planning Board be adjourned in **memory of Jack L. Ellis, Sr.** who passed away on October 4, 2003 at the age of 82; and in **memory of Latham B. Weber** who passed away on October 7, 2003 at the age of 87 and directed that a letter of condolence be sent to each of their families from the Cattaraugus County Planning Board members and staff; and to*

(1) recognize that **Jack L. Ellis, Sr.**

a) was a valuable and contributing member of the Cattaraugus County Planning Board from January 10, 1968 to July 31, 1993, was Secretary from January, 1986 to January 1992, and Assistant Secretary from February 1968 to December 1985,

b) served his country in the United States Army during World War II in the Pacific Theater,

d) was employed by the Cattaraugus County Highway Department for 40 years from 1947 to 1987, and was superintendent of highways from 1970 until his retirement in 1987,

e) was a member of the Cattaraugus County Museum Board, a life member of the Superintendent of Highways Association, a member of St. Mary's Roman Catholic Church in Little Valley, a 57-year member of American Legion Post 531 in Little Valley, a member of Odd Fellows of Little Valley, an exempt Little Valley volunteer fireman, and a member of the Little Valley Rural Cemetery Board for many years.

f) is survived by a son, Jack L. Ellis Jr. of South Dayton; five daughters, Karen (Larry) Dash of Yorktown, VA.; Eileen Ellis and Susan (Dennis) Koch, both of Little Valley; Kathleen Ellis of Olean and Marie (Bruce) Michielsen of Collierville, Tenn.; six grandchildren; and six great-grandchildren.

(2) recognize that **Mr. Latham B. Weber**

c) was a valuable and contributing member of the Cattaraugus County Planning Board from 1966 to July 31, 1994, and was Chairman from February 1983 to January 1989,

d) served his country in the United States Navy during World War II as an Air Combat intelligence Officer,

g) was editor and publisher of the Salamanca Republican-Press from June 1938 until his retirement December 31, 1977, except for one year teaching at Washington and Lee (1940-41) and his Navy Service,

h) was a member of the Salamanca Hospital District Authority and chairman from 1969 to 1971, a member of the County Community Services Board from 1978 to 1993 and the first chairman of the Salamanca Housing Authority from 1953 to 1963, a former director of the Salamanca Federal Savings & Loan, First National Bank of Salamanca and First Trust Union Bank of Wellsville.

i) Is survived by his wife Anne of 63 years and three children, Julia W. Bailey of Belmont, Mass., Dr. Matthew H. Weber of Clinton and James B. Weber of Sedro Woolley, Wash. and two grandchildren.

Mr. Ellis' and Mr. Weber's presence will be missed and sadly felt by his family, friends and colleagues in Cattaraugus County.

Motion carried unanimously at 9:12 p.m.

Approved December 2, 2003.

COUNTY HISTORIAN LOOKED TO THE FUTURE

Kenneth Kysor was born on February 13, 1914 in the original stone house in Machias, New York that was built for Cattaraugus County's Alms House, which is located near Lime Lake. His grandfather was the elected Superintendent of the Cattaraugus County Alms House, and his parents, Gilbert and Mabel Kysor, ran the farm that supplied the residents and staff with food. He preferred to be called "Ken", and he liked to tell people that, "I was born in the Poor House".

Lois Wing met Ken Kysor in 1928 in High School where Ken was one of the school's basketball champions. They married in 1934 after they both had graduated. They had a long and happy life together where they lived on Lover's Lane Road in the Village of Cattaraugus, New York. After 48 years of marriage, his wife, Lois, died of cancer in 1982. They are survived by an extensive family on both sides, including two daughters, Susan Kysor of Jamestown, New York and Shirley Altoft of Fairfax, Virginia. He ran a dairy farm for many

years and also worked on construction and at US Plywood in Cattaraugus, New York. He loved to hunt and fish.

Ken was a devoted member of Roberts Memorial Free Methodist Church in Cattaraugus where he was a Sunday school teacher and church historian for many years. He was a member of the Lions Club, and was adopted into the Chapter for the Sons of the American Revolution in Jamestown, New York. He was also the Village and County Historian for over 20 years and authored many books and articles about County and local history. Ken's slogan, proudly displayed on his County Historian's letterhead, was "Preserving the past fosters the future". In keeping with this philosophy, for many years he assisted the Cattaraugus County Planning Office on research projects and special events related to Heritage Tourism and the county's future. One of his favorite tributes was in honor of Abraham Lincoln's overnight visit to Little Valley, when his train got stuck in a snowstorm in the 1850's.

In 1999, Ken graduated from Fredonia State College with an Associate in Arts Degree in History, after two years of dedicated study and research. Many people admired his accomplishment at the age of 85, and he received a standing ovation by more than 500 people at his graduation ceremony in Buffalo, New York.

Ken was an inspiration and example to his family, friends and residents of Cattaraugus County. He has left a positive legacy for all of us. We will miss him.