

**Cattaraugus County Planning Board**  
**January 29, 2004**  
**County Center**  
**Little Valley, NY**  
**7:00 p.m.**

**PLANNING BOARD MEMBERS PRESENT:**

Paul Bishop, Chairman  
Ann Padlo, Secretary  
Paul Mager, Assistant Secretary  
Jack Berger  
Charles Couture  
Florence Fuller  
Robert Keis  
Donald Patterson  
David Rivet

**PLANNING BOARD MEMBERS ABSENT:**

William Sprague, Vice Chairman  
Tina Abrams  
Kameron Brooks  
James Rich

**PLANNING STAFF PRESENT:**

Terry H. Martin, Chief Planner  
David P. Paoletta, Planner  
Margaret E. Puszcz, Stenographic Secretary

**GUESTS:**

Linda Witte, Development & Ag Committee of County Legislature  
Joan Petzen, Ag & Farmland Protection Board  
William Dibble, Allegany Trails  
Ron Stuck, Allegany County Planning Board  
Kathy Kellogg, Buffalo News

Chairman Bishop called the meeting to order at 7:01 p.m.

**PRESENTATION - Cattaraugus County's Equestrian Initiative**

Terry Martin presented a PowerPoint slid presentation on Cattaraugus County's Equestrian Initiative and reported that he had also presented this at the NYS Horse Council Annual Meeting in Binghamton, NY in December 2003. It was well received by those in attendance at the meeting and the Horse Council is very supportive of the Cattaraugus County initiative, which is exploring the feasibility of Cattaraugus County becoming the equestrian center of Western New York. There are 20,000 horses within 80 miles of Cattaraugus County. The County also has existing trails and horse clubs with planned rides, established private stables, and an Amish-based horse transportation economy in the western section of the County. These assets are already a part of life here, and the new initiative is to link assets together in a common marketing effort over the next several years. Some proposals have already begun such as the First Ever Equestrian Festival held October 2003 in Franklinville. A horse centered store has opened in Ellicottville. Trails rides are held twice a year at the Little Valley Rider's Club and Allegany State Park. The Rider's club is also working on building an indoor equestrian center. Lori Northrup, from Ellicottville, is also developing a

boarding stable and indoor riding arena. Equestrians from Cattaraugus and Chautauqua counties are now forming a two county chapter of the NYS Horse Council.

A basic recommendation is for public and private groups to develop trail loops, with Bed and Barn establishments so that people can take 2 or 3 day rides with overnight accommodations.

Two examples of proposals being studied at this time are, first, an equestrian staging area is being designed on 200 acres that the County leases from the U.S. Corps of Engineers at Onoville Marina that currently are under utilized. Second, the feasibility of developing equestrian housing catering to horse owners is being examined for sites near Case Lake in Franklinville, which could include shops, boarding, grooming, trails and more for the people who live in the subdivision. This is a “niche market” for horse enthusiasts, who currently have to drive 40 to 50 miles to get supplies from this area.

Ann Padlo expressed the desire to see horse trails in the Olean area as well.

### **APPROVAL OF MINUTES**

*Charles Couture moved with a second from Paul Mager to approve the December 2, 2003 meeting minutes as submitted. Carried.*

### **NEW BUSINESS**

### **ZONING REFERRALS**

#### **Town of Portville – Site Plan Review – Dollar Store**

Terry Martin reported that he has been working with the Town of Portville Planning Board and the Dollar Store Developer for the past month and half to incorporate Randall Arendt planning and development designs into this project Site Plan. One major change that could not be done is to face the building up closely to Route 417 and put all parking out back of the building because a main gas line runs through the property near the highway.

The developer has agreed (1) to move the new building forward part way so there will be less asphalt out front with parking also off Whitehouse Road and along the backside of the building, (2) to place false windows on the Route 417 side of the building and to paint the building to match the colonial look of Portville, and (3) to landscape with plants around the new sign on the Route 417 side.

Terry Martin stated that this is a large lot with three principle uses. If zoning were in effect, only one principal use per lot would be allowed. Because Portville does not have zoning, the Town Attorney researched NYS General Municipal law, and gave his legal opinion that under said law, there are no restrictions on having more than one principle use per parcel. The Town has adequately addressed SEQR. Staff recommendation is approval.

*Robert Keis moved with a second from Charles Couture to approve the Site Plan for a Dollar General store to be construction on the corner of Route 417 and Whitehouse road in the Town of Portville. Carried.*

#### **Town of Allegany – Use Variance – Mobile Home – Five Mile Road**

David Paoletta reported that the Town of Allegany has referred a use variance to allow a manufactured home in an R-1 zoning district.

David Paoletta stated that the applicant proposes the construction of a double-wide manufactured home (28’

by 68') on a lot to be subdivided from an existing parcel for which a purchase agreement has been made. Under the Town of Allegany Zoning Ordinance, manufactured homes are not permitted in an R-1 District without a use variance. The Cattaraugus County Health Department has approved plans, specifications and a permit to construct a small sewage treatment system to serve the proposed residence. The proposed action is situated on property adjacent to three (3) parcels located in a NYS Certified Agricultural District as indicated on the required Agricultural Data Statement, which has been submitted. No adverse impact on any farming operation is anticipated. Projects of this nature have the potential to adversely impact upon surrounding residential properties based on their type and value, however, in this instance that does not appear to be the case. The Town, in fact, has a history of granting use variances for mobile homes. This is a local issue with no countywide or inter-municipal concerns. The County does, however recognize a need for affordable housing in that area. Staff recommendation is approval with three (3) Advisories as follows:

1) The Town of Allegany Zoning Board of Appeals should evaluate the proposal and justify a determination that the applicable zoning regulations and restrictions have caused an unnecessary hardship on the applicant. Furthermore, the applicant shall demonstrate and the Zoning Board of Appeals shall find that:

- a) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- b) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- c) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- d) that the alleged hardship has not been self created.

2) Ensure that the presence of a flood plain be taken into consideration and that the structure is constructed in such a manner as to mitigate potential flood damage.

3) The Town of Allegany revisit their Zoning Ordinance with respect to the siting of manufactured homes in the Town.

Discussion on the difference between a mobile home and a manufactured home.

Ron Stuck stated that anything made after 1976 must meet HUD requirements and is usually referred to as manufactured housing.

*Donald Patterson moved with a second from Jack Berger to approve the referred Town of Allegany use variance request to allow a manufactured home in an R-1 zoning district with three advisories:*

*1) The Town of Allegany Zoning Board of Appeals should evaluate the proposal and justify a determination that the applicable zoning regulations and restrictions have caused an unnecessary hardship on the applicant. Furthermore, the applicant shall demonstrate and the Zoning Board of Appeals shall find that:*

- a) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;*
- b) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;*
- c) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and*
- d) that the alleged hardship has not been self created.*

2) *Ensure that the presence of a flood plain be taken into consideration and that the structure is constructed in such a manner as to mitigate potential flood damage.*

3) *The Town of Allegany revisit their Zoning Ordinance with respect to the siting of manufactured homes in the Town. Carried.*

### **Town of Allegany – Area Variance – Rehab Center – 3617 Five Mile Road**

David Paoletta reported that the Town of Allegany has referred an area variance to allow a canopy to within 14.01 ft. of the front property line, where a 50-foot setback is required for the Rehab Center located at 3617 Five Mile Road.

David Paoletta stated that the applicant proposes the construction of a 440 sq. ft. (18' x 24.4') canopy on the front of an existing Rehabilitation Center within the front yard setback to shield wheelchair bound clients from the elements when accessing vehicles in the existing driveway. The Town of Allegany Zoning Ordinance requires a 50 ft. front yard setback in an R-1 District. The applicant is proposing a 14 ft. setback. The existing building was constructed with a 40 ft. front yard set back (a 10 ft. variance). The support structure for the canopy is already in place and is located at the edge of the driveway on a grass island that separates the Rehabilitation Center from the road. The proposed canopy, as depicted in the site plan photos, will not affect the line of sight of vehicles traveling on Five Mile Road or exiting nearby driveways. However, due to concerns about snow plowing and snow storage, the Town referred the application to the Cattaraugus County DPW for review.

DPW responded that, “We have concerns about this structure being erected within 14 ft. of the road right-of-way. In addition to the Town Code Enforcement Officer’s concerns regarding snow storage, an errant car could potentially strike this steel I beam structure and cause significant harm to its occupants. We would respectfully request that alternative locations that would not place more structures close to the Five Mile Road be investigated.”

David Paoletta stated that this is a local issue with no countywide or inter-municipal concerns. Nevertheless, both DPW’s position and the fact that the applicant’s request involves a significant and unprecedented compromise of the front yard setback, staff recommendation is disapproval.

David Rivet stated that he and one of his staff went out and looked at the location. The support structures are within the 14 ft right of way and the original building is already 10 feet within the 50 foot front yard setback. That is why he is requesting that alternative locations be investigated.

*Charles Couture moved with a second from Robert Keis to disapprove the Town of Allegany’s referred area variance to allow a canopy to within 14.01 ft of the front property line for the Rehab Center at 3617 Five Mile Road. This disapproval is based on both DPW’s position and the fact that the applicant’s request involves a significant and unprecedented comprise of the front yard setback. Carried.*

### **Village of Ellicottville – Conditional Use Permit – 30 Jefferson Street**

David Paoletta reported that the Village of Ellicottville referred a conditional use permit request to allow for rental of a single family dwelling unit for rental period less than 30 days at 30 Jefferson Street. Since 30 days have passed since the referral was received, the Village of Ellicottville requested that General Municipal Law Section 239-m. 4. (b) be adhered to. This section of the law states that if a County Planning Board has not responded to a submitted zoning referral within 30 days, the municipality may legally proceed without a response from the County Planning Board.

## **Agricultural Protection Plan/Cattaraugus Creek Watershed**

Terry Martin reported that he has been serving, at the request of Gerard Fitzpatrick, Chairman of the Cattaraugus County Legislature, on the Lake Erie Binational Forum for several years helping to set the Forum's agendas and direction. The Forum's program originally included potential new regulations for municipalities located along tributaries of Lake Erie, which would include Cattaraugus Creek. Thus, all our municipalities in the northern portion of Cattaraugus County could be affected. Terry has represented the point of view, that Federal agencies should provide technical assistance to our municipalities, businesses and farms instead of imposing ever-increasing regulations on them.

He circulated a work scope for the two watersheds that the Forum has selected with funding from EPA/Environment Canada, with assistance from a Bi-national federal Land Use Project Team: the Kettle Creek Watershed near Port Stanley, Canada and the Black River Watershed near Lorain Ohio. The Cattaraugus Creek Watershed was a very close contender for the monies in the first round. A second round is coming up.

Terry Martin said that if the new round of funding is similar to the first round, we would be able to prepare a Cattaraugus Creek Watershed Protection Plan in combination with a phase one Agricultural and Farmland Protection Plan using the NYS grant as a local match. Subsequent phases would produce a countywide Agricultural and Farmland Protection Plan.

The proposed phase one could be accomplished utilizing funding from both the USEPA through the Lake Erie Binational Forum and from the NYS Department of Agriculture & Markets. Once these plans were prepared, they are expected to open up new funding for project implementation under both state and federal grants. The methodology would combine traditional watershed / water quality techniques with newer techniques from Smart Growth, such as Purchase of Development Rights, and New York State's Quality Communities initiative.

Discussion ensued on Purchase of Development Rights in relationship to the Agriculture and Farmland Protection Plan.

Joan Petzen suggested that the perhaps the Ag & Farmland Protection Plan could be done in three phases coinciding with the three watersheds in the County.

## **Proposed Southern Tier Waste Management Facility (Farmersville)**

Terry Martin stated that NYSDEC received over 1,300 letters from individuals, agencies and organizations in response to the Notice of Complete Application and Availability of Draft Supplemental Environmental Impact Statement for the proposed Southern Tier Waste Management Facility in the Town of Farmersville. As a result a legislative public hearing and an Issues Conference will be held. An Administrative Law Judge will schedule the hearing.

Terry Martin distributed and reviewed Chairman Bishop's letter that was sent on behalf of the County Planning Board to NYSDEC in response to the Notice of Complete Application and Availability of Draft Supplemental Environmental Impact Statement. Volumes 1 and 2 of Cattaraugus County's Smart Development for Quality Communities Planning Guidebook Series were enclosed with the letter. He described the contents of the letter, pointing out that

- (1) Cattaraugus County Has A Comprehensive Planning Vision / General Municipal Law, Section 239 D.
- (2) Cattaraugus County Wants Sustainable Communities.

(3) Cattaraugus County Is Keeping Its Option Open for A Park.

(4) Cattaraugus County ants NYSDEC to Study the Cumulative Impacts of Traffic on Nearby Intersections.

(5) Public Safety and Financial Concerns (There Is A Potential Conflict With Gravel Mining).

(6) Cattaraugus County is Concerned with Potential Cumulative Impacts On The Wild Trout Population, and wants to know if The Reduced Habitat will Be Degraded Over The Long Term, and whether or not there Will There Be Scientific Study of Fish Habitat and Population?

(7) Cattaraugus County Wants To Maintain A Balance Among A Diversity of Land Uses.

(8) Cattaraugus County Has A Sixteen Year Planning History, and a Promising Future for the 21st Century.

Discussion.

### **Intergovernmental Reviews**

Chairman Bishop noted that two Intergovernmental Reviews had been received. David Paoletta stated that staff recommendation was received, reviewed, no comment. Board members concurred.

### **REPORTS**

#### **Chairman's Report**

Chairman Bishop welcomed on behalf of the Planning Board, Linda Witte, new Legislator and member of the Development and Agriculture Committee.

Ms. Witte indicated that she was very happy to be at the meeting and looks forward to working with the members of the Planning Board.

#### **Report of Nominating Committee and Election of Officers**

Jack Berger reported that all current officers have agreed to serve another term of office.

*Jack Berger moved with a second from Charles Couture that the following officers be elected for the year of 2004: Paul R. Bishop, Chairman, William Sprague, Vice Chairman, Ann Padlo, Secretary and Paul Mager, Assistant Secretary. Carried.*

#### **Appointment of Standing Committees**

Chairman Bishop stated the he would like the Standing Committees to stay the same except he wants to check with Bill Sprague and Tina Abrams about assignments.

#### **Member's Forum**

Charles Couture stated that the Ashford Office Complex building that had been occupied by the West Valley Demonstration Project needs occupants.

Donald Patterson reported that South Dayton has received a \$15,000 grant from Senator Patricia McGee for a playground.

### **Director's Report**

Terry Martin reported the following items for Thomas Livak:

### **Snowmobile Trail Funds**

Cattaraugus County has received \$56,893.26 in grant money from New York State, which will be distributed by the Cattaraugus County Federation of Snowmobile Clubs to eight snowmobile clubs in the county for the purpose of maintaining and improving 388 miles of trails. It is important to note that this grant money comes from snowmobile registration fees. Senator Patricia McGee presented the check to the president of the Cattaraugus County Federation of Snowmobile Clubs and eight other club presidents at the County Legislature meeting on January 28, 2004. The Department of Economic Development, Planning and Tourism staff worked with the clubs to prepare the grant application, SEQR review, resolutions and mapping of the trails.

### **Procurement Grant**

Cattaraugus County has received \$89,070 in grant money from the Department of Defense, which is an increase from the \$68,000 the county received last year, to continue its participation in the county's Procurement Technical Assistance program, which has grown over the past 16 years. Last year, 147 small businesses in Cattaraugus County served as a subcontractor for larger companies with prime Defense Department contracts for a wide range of goods and services. Ralph Vinciguerra, assistant director for small business of the Defense Contract Management Agency's Syracuse office, presented Legislature Chairman Gerard Fitzpatrick and Agriculture and Development Committee Chairman Jerry E. Burrell with a ceremonial check at the County Legislature meeting on January 28, 2004. This program is administered by the Department of Economic Development, Planning and Tourism staff person, Joseph Williams.

### **STW Report**

Robert Keis reported that the STW Board did not meet during the month of January.

### **OTHER REPORTS**

Terry Martin reported that he has written a letter to Harry Willis, Attorney, NYS Department of State requesting a legal opinion on whether or not Cattaraugus County can adopt the Visioning Elements of a county's comprehensive plan separately prior to the completion of the county's entire comprehensive plan.

### **Agricultural Districts Update**

David Paoletta reported as discussed at the December 2, 2003, meeting of the County Planning Board, an amendment to the NYS Agriculture & Markets Law requires the designation of a 30-day annual period that would allow landowners to submit a request for inclusion of their land in a NYS certified Agricultural District prior to the district's eight-year review period. To facilitate the County's compliance with this amendment to NYS law, the Department of Economic Development, Planning and Tourism prepared a draft resolution of the County Legislature establishing the period of January 2nd through January 31st as Cattaraugus County's annual 30-day period for landowner inclusion of property in an Agricultural District. The County Planning Board recommended on December 2, 2003, that the County Legislature establish the period of January 2nd through January 31st as Cattaraugus County's 30-day period. The County Agricultural and Farmland

Protection Board followed suit with the same recommendation on December 9, 2003.

On December 10, 2003, the Cattaraugus County Legislature, by resolution, established the period of January 2nd through January 31st as Cattaraugus County's annual 30-day period for landowner inclusion of property in an Agricultural District prior to the district's eight-year review. Subsequently, the Department of Economic Development, Planning and Tourism received a number of inquiries from landowners interested in having property included in an Agricultural District. The Department provided information on a case-by-case basis as to the eligibility of properties for which the inquiries were made. To this point, no landowners have officially requested the inclusion of property in any of Cattaraugus County's seven NYS certified Agricultural Districts.

### **CORRESPONDENCE**

The following correspondence has been received:

Gerard J. Fitzpatrick, Chairman, Cattaraugus County Legislature - Appointments to Route 219 Corridor Development Committee – Thomas Livak, Terry Martin and Robert Keis for a term to expire on December 31, 2007.

Notice of Final Action - Town of Ellicottville – Special Use Permit and Site Plan Review to allow the co-location of cellular telephone antennas on an existing telecommunications tower located at 7764 Route 219 North including the construction of a ten foot by 16 foot concrete equipment pad at ground level – approved.

Notice of Final Action - Village of Ellicottville – Local Law imposing a 9 month moratorium prohibiting the issuance of any building or demolition permits – passed.

### **ADJOURNMENT IN MEMORY OF LOIS BOBSEINE EATON**

Donald Patterson moved with a second from Jack Berger that

(1) The January 29, 2004 meeting of the Cattaraugus County Planning Board be adjourned in memory of Lois Bobseine Eaton who passed away on January 24, 2004 at the age of 85;

(2) A letter of condolence be sent to her family from the Cattaraugus County Planning Board members and staff;

(3) Cattaraugus County Planning Board recognizes that Mrs. Eaton

a) Was the "Mother of Planning in Cattaraugus County" as Chairman of the original Planning Committee of the Cattaraugus County Board of Supervisors and in 1961 sponsored the resolution that created the Cattaraugus County Planning Board and Planning Department in 1961,

b) Served on the Cattaraugus County Board of Supervisors from January 1960 to December 1967 as the first elected female Supervisor in Cattaraugus County for the Town of Otto,

c) Served on the Cattaraugus County Planning Board from January 10, 1968 to July 31, 1993 and was Chairman from February 1976 to December 1982,

d) Was a founding member and president of the Cattaraugus County Women's Republican Club.

e) Actively served her community as a fund drives volunteer for the American Cancer Society, the American



Red Cross, the March of Dimes, and was chairman of the Tri-County Hospital Auxiliary for the Town of Otto, and a member of the Home Bureau,

f) Was a former president of the Parent Teacher Association, and American Field Service coordinator at Cattaraugus Central School, and youth activities advocate,

g) Was a graduate of Bryant and Stratton Business Institute in Buffalo, and was employed by the Bank of Cattaraugus and the ASCS offices of Cooperative Extension in Ellicottville,

d) Is survived by three daughters: Gale L. Bobseine of Ellicottville, Greta L. Bobseine of Chautauqua, and Gwen L. Colton of Great Valley; a son, Gary L. Bobseine of Cattaraugus; nine grandchildren; two great-grandchildren; one brother, Bud Besecker of Virginia; and two sisters, Dorothy Nelson of California, and Winifred Mabry of Indiana.

Mrs. Eaton's presence will be missed and sadly felt by her family, friends and colleagues in Cattaraugus County. *Motion carried unanimously.*

**APPROVED AS SUBMITTED 2/26/04.**