

**CATTARAUGUS COUNTY PLANNING BOARD
COUNTY CENTER
LARGE COMMITTEE ROOM
LITTLE VALLEY, NY
SEPTEMBER 30, 2004**

PLANNING BOARD MEMBERS PRESENT:

Paul Bishop
Ann Padlo
Paul Mager
Jack Berger
Kameron Brooks
Charles Couture
Florence Fuller
Robert Keis
David Rivet

PLANNING BOARD MEMBERS ABSENT:

William Sprague
Tina Abrams
James Rich

PLANNING DIVISION STAFF PRESENT:

Terry Martin, Chief Planner
David Paoletta, Senior Planner
Katherine Wagner, Planner

GUESTS:

Joan Petzen, Agricultural and Farmland Protection Board
Kathy Kellogg, The Buffalo News

Chairman Bishop called the meeting to order at 7:11 p.m.

Terry Martin began meeting by introducing the new planner, Katherine Wagner, to the Planning Board. The Board members introduced themselves to Kate.

APPROVAL OF MINUTES

Charles Couture moved with a second from Robert Keis to approve the August 26, 2004 meeting minutes. Carried.

NEW BUSINESS

General Municipal Law Section 239 (l) & (m) Referrals

Town of Freedom – Amendment to Land Use Ordinance

Terry Martin reported that this is more of a flood plain ordinance with zoning components. For example, the existing ordinance has (1) districts for Floodway Area, Flood Fringe Area,

and Open Area; (2) controls on use of land and structures with permitted and specials uses, conforming and non-conforming uses, a prohibited use, dimensional requirements; (3) a Building Inspector who can issue permits and Certificates of Occupancy; (4) requires site layout and plot plans for review; (5) a complaint

process with a Board of Appeals that can issue variances and special use permits and can impose conditions on special use permits.

Terry contacted the attorney at the Department of State in Albany, Harry Willis to see if this is in fact a zoning ordinance because the Town Clerk said their town did not have a zoning ordinance. Mr. Willis said that with all of its zoning-like features, it looks like a zoning ordinance. He said that our County Planning Board could make comments “on the side” that the town should revise this ordinance and bring it up-to-date as a zoning ordinance.

The proposed amendments increase the minimum lot area in the ordinance from 1/2 acre to 1 acre and establishes a minimum road frontage of 200 feet. The proposed amendments state that the road frontage change will affect any structures built after January 14, 2002. This date should be deleted and replaced with a generic statement that it takes effect when these amendments become effective.

The staff recommends approval with two advisories – (1) delete the phrase “This provision shall apply to any building commenced on or after January 14, 2002” and, (2) obtain legal advice from Town Attorney on whether or not this ordinance is a zoning ordinance and if it is, it needs to be rewritten and updated.

Robert Keis pointed out that in the 1960’s and 1970’s, some small towns that had no zoning ordinances used flood plain ordinances to add zoning-like restrictions without using the word “zoning” in the Board of Appeals ordinance.

Robert Keis moved with a second from Kameron Brooks to approve the Town of Freedom Amendment to Land Use Ordinance with two advisories: (1) delete the phrase “This provision shall apply to any building commenced on or after January 14, 2002” and, (2) obtain legal advice from Town Attorney on whether or not this ordinance is a zoning ordinance and if it is, it needs to be rewritten and updated. Carried.

Town of Ellicottville – Area Variance – Mobile Home – 5344 Beaver Meadows Rd.

Katherine Wagner reported that an area variance application came to the County Planning department. The owner wanted to replace an existing mobile home in poor condition with a new mobile home in a different layout. The property, located at the corner of Beaver Meadows Road and County Road 32, has an existing water system and the owner is proposing to install a septic system. Due to the requirements of the County Health Department on the placement of the septic system, this was the only feasible configuration to put the new mobile home. The property is located in a Conservation District. Mobile homes are prohibited in this district, but since a mobile home already exists on the property, the site is grandfathered. The zoning ordinance requires a 100-foot setback from the front and rear property lines. Since the site is only 125 feet deep, it is impossible to follow these requirements. The applicant is proposing a 60-foot setback from the front property line and approximately a 50-foot setback from the rear property line. This property is not located in a flood zone, agricultural district, or wetlands area. The surrounding land uses include agriculture and vacant land.

Staff recommendation is approval.

David Rivet moved with a second from Charles Couture to approve an area variance for a mobile home at 5344 Beaver Meadows Road in the Town of Ellicottville. Carried.

Ann Padlo asked about the owner using cement blocks to support the mobile home. Paul Mager explained that a building inspector would have to approve the cement blocks, and Robert Keis pointed out that the building inspectors have to follow state guidelines.

Paul Mager asked if the mobile home was the same size. Katherine Wagner said that the size of the mobile home was not mentioned in the application.

Charles Couture stated that he's seen the site before, and it's a terrible size. Can we deny him the use of his property?

Town of Allegany – Special Use Permit – Applebee's – 3067 W. State St.

David Paoletta reported Applebee's submitted an application for a Special Use Permit at the W. State St. restaurant. The application was for the addition of a "Carside to Go" door and four dedicated parking spaces on the west side of Applebee's. As a current permitted use, the project will require a Special Use Permit for "eating or drinking establishments with drive-in or drive-through facilities." Such facilities are allowed by Special Use Permit in the Town of Allegany Zoning Ordinance. The original approved site plan has been amended to include four parking spaces and a striped walkway from the "To Go" door to the dedicated parking spaces. SEQR is being addressed by the town. There is no impact on emergency vehicle access (18 foot laneway). There are no environmental concerns and no inter-municipal or countywide concerns.

Staff recommendation is approval with one advisory: 1) The four "To Go" parking spaces should be moved to immediately alongside the building near the door to improve safety.

Ann Padlo agreed with the advisory.

Kameron Brooks moved with a second from Paul Mager to approve the Special Use Permit for Applebee's to have a "To Go" door with four dedicated parking spaces and one advisory: 1) the four "To Go" parking spaces should be moved to immediately alongside the building near the door to improve safety. Carried.

Village of Franklinville – Special Use Permit – Parking Lot – 8 N. Academy St.

Paul Bishop noted that this referral had been withdrawn from the agenda by the Village of Franklinville.

Village of Ellicottville – Conditional Use Permit – Less than 30 day rental – 29 Elizabeth St.

David Paoletta reported that an application for a Conditional Use Permit to allow rental of property for less than 30 days had been received. It is a single family, four-bedroom home. The Village Zoning Ordinance allows this type of use by a Conditional Use Permit. This application meets all zoning and permit requirements (i.e. parking plan, setbacks, etc.). This is a local issue, no inter-municipal or countywide concerns.

Staff recommendation is approval.

Ann Padlo moved with a second from Florence Fuller for the approval of a Conditional Use Permit for less than 30-day rental unit in the Village of Ellicottville. Carried.

Eight Year Review of the Perrysburg-Dayton-Leon Agricultural District

David Paoletta stated the County has received notification from New York State Department of Agriculture and Markets to start the Eight Year Review Process for the Perrysburg-Dayton-Leon Agricultural district and handed out sheets explaining the Board review criteria. David briefly went through the sheet. The County Planning Board is to determine if the plan is consistent with the comprehensive plan, determine the impacts on the environment, and if the plan abides by the local laws and ordinances.

Joan Petzen explained there would be a subcommittee from the Agricultural and Farmland Protection Board, including local farmers and the town assessors from each of the towns involved.

Terry Martin asked if there would be a merging of Agricultural Districts.

Joan explained that Persia may be merged with one of the other Agricultural Districts. Board Members discussed the number of farms in the county.

David Paoletta explained the benefits of participating in the Agricultural Districts program.

Intergovernmental Reviews

Terry Martin reported that Katherine Wagner has been assigned to handle Intergovernmental Reviews from this point on.

Robert Keis noted that these are more of an announcement. The purpose of these reviews is so the County acknowledges receipt of these announcements. For more information, he said to contact Southern Tier West Regional Planning Development Board.

Katherine Wagner acknowledged receipt of these reviews, and staff and Board had no comment.

OLD BUSINESS

Agricultural and Farmland Protection Plan Grant Application

David Paoletta handed out the grant application. David briefly went through the grant application explaining each section.

Charles Couture asked who does the surveys?

David Paoletta said the people conducting the survey will be determined by the Agricultural and Farmland Protection Board. There will be no decisions until the consultant proposals are reviewed.

Joan Petzen said the Board would choose a local person to conduct the survey, not a stranger. She mentioned that as the process continues, the Board will reprioritize the goals and recommendations.

David Paoletta stated that public participation will be emphasized throughout this whole process. It will take approximately 2 months to get a consultant, then about 14 months to complete the rest of the plan. An 18-month limit is established by the state. The Agricultural and Farmland Protection Board endorsed the plan, and any Planning Board members with comments will need to be submitted by next Wednesday, October 6, 2004. The next step is to take the grant application to the Development and Agriculture Committee. Then Jess Fitzpatrick's signature will need to be obtained, and then it will be sent to Albany. It is hoped that the award date will be in November or December.

Terry Martin stated that farmers were concerned that this plan should help businesses in the agricultural industry and asked what in this application will address those concerns.

David Paoletta replied that the grant application contains numerous references to the economic viability of farming and that specific recommendations will be developed during that planning process.

Ann Padlo asked what the estimated \$40,000 of in-kind services was.

Joan Petzen replied that the breakdown of that \$40,000 is shown in attachment 5.

NYS Horse Council Newsletter Distribution

Terry Martin reported that the NYS Horse Council Newsletter had lost its editor, and the County Planning Dept. offered to edit the newsletter in exchange for being allowed to add an 8-page insert about equestrian assets and events in Cattaraugus County. The President of the NYS Horse Council, George King was pleased with the result. The ex-President, Diane Jones, was at a statewide meeting and suggested that the newsletter ought to include inserts once a year from different counties around New York State. She said Cattaraugus County is setting a new precedent for the statewide newsletter. The department was given 500 copies and

there is only 25 left. This edition was very popular among equestrians in our region. This weekend is the Creekside Roundup in Franklinville.

Preservation League of New York Workshop – September 29, 2004

Terry Martin reported that around 80 people attended the workshop at DeLynns' Art Gallery. Jess Fitzpatrick, Senator McGee, the Mayor of Franklinville all gave speeches. Senator McGee honored Clint Bordeaux, an elderly gentleman who was born in Franklinville and played in the village band for many years. The Mayor read a proclamation that the week of September 29 is the official arts and cultural heritage week. Mr. Bordeaux gave a speech and received a standing ovation. Tania Werbizky of the Preservation League of New York gave speeches on what was preservation and different sources of funding for preservation. Tania stated that she would like to engage in one or two projects in the county within the next year.

Board members who attended the workshop discussed their feelings of the evening, which were positive.

REPORTS/OLD BUSINESS

Chairman's Report

Paul Bishop stated that James Beach, Councilman for the Town of East Otto and James Ellis, County Legislator, will host the County Planning Board's October meeting at the East Otto School (the current Town Hall), 9014 East Otto-Springville Road, East Otto.

Special Projects Committee

Robert Keis thanked Chairman Bishop for his leadership in having the Special Projects Committee look at the feasibility of subdivision review. Mr. Keis briefly went over the minutes and the recommendations of the Committee.

Terry Martin noted that the County is still developing standards on which to base our County Planning Board recommendations. These are presented in the two guidebooks that were adopted by the County Legislature. A comprehensive plan would set the specific standards for planning, zoning, and subdivision reviews. Tom Livak suggested at the subcommittee meeting that maybe the County Planning Board should recommend to the County Legislature that a comprehensive plan be developed. He said that the department is already planning for several workshops.

Kameron Brooks asked why we need to do the zoning referrals.

Terry Martin replied that state statutes mandate the zoning referrals, which is why we do them. There is not enough staff time to add subdivision reviews and still do our advance planning work and technical assistance.

Kameron Brooks said that in order to add subdivision reviews, staff would either have cut down on the zoning referrals or get more staffing. Priorities need to be made.

Paul Mager stated that with the Seneca Allegany Casino in Salamanca, we should assume that there will be more subdivisions.

Robert Keis noted that maybe our resources are going in the wrong direction. Maybe the County Planning Board should spend its time on the more important subdivision reviews and less time on the small zoning referrals that have minimal impacts. We currently spend a lot of time on zoning referrals.

Chairman Bishop reported that Pennsylvania counties spend a lot of time reviewing subdivisions. Subdivisions have a much larger impact than most zoning referrals.

Terry Martin and David Paoletta said that the department is just starting an effort to get municipalities to enact exemptions to the mandated zoning referral requirements and will maybe have a workshop in the spring where we can help them draft their exemption agreements.

Robert Keis noted that the towns need to pass a resolution to exempt referrals from being sent to the County Planning Board.

Kameron Brooks said that a template for a resolution would speed up the process of getting it passed in the towns.

Terry Martin asked Kameron Brooks if he would like to volunteer to develop this? Mr. Brooks said yes. Terry also reported that Tom Livak encouraged the staff and Board to use Randall Arendt's ideas and guidelines. They need to be used in our meetings because they are the County's standard now that the County Legislature has adopted our two guidebooks.

Linda Witte mentioned that the Board should look at current subdivisions before we continue building new ones and the problems associated with them. She mentioned storm water problems.

David Paoletta said that those problems are mostly engineering problems and that the criteria for reviewing subdivisions is outlined in General Municipal Law section 239 (l).

No actions were taken at this point in time.

Members Forum

Robert Keis noted the Welcome to Randolph sign that has now been covered up by the NYSDOT. The NYSDOT originally approved the plan, and even funded the building of the sign. Now they say it's a distraction to drivers on I-86.

Kameron Brooks said the START trail that goes through downtown Little Valley was 95% complete. It is being blacktopped. Work will cease soon and continue in the spring. The north end has been acquired to build the trail into the Village of Cattaraugus.

Ann Padlo reported that a private association, kind of like the SPCA, has reported the possibility of a bed and breakfast for cats and dogs, modeled after the bed and breakfasts for horses.

Charles Couture reported that the building owned by Peter Krog in Ashford Hollow would be occupied if Krog would decrease the rent.

Ann Padlo reported that the Olean Bicentennial is on Saturday, October 30, 2004. Ann said she was the coordinator of the time capsule and said that if the Board members wanted to put anything in to talk to her. Terry Martin agreed to give her copies of our two adopted guidebooks to put in the time capsule.

Director's Report

Terry Martin reported that Thomas Livak wanted to introduce the new planner, Katherine Wagner, which was done at the beginning of the meeting.

Southern Tier West Report

Robert Keis reported that the co-chair of ARC visited September 10, 2004. The co-chair participated in the I-86 Pride project ceremony in Randolph. Mr. Keis had the schedule of local training programs. Wednesday, October 27, 2004 will be the next Board meeting. The ARC grant for mapping county assets in villages was

approved.

CORRESPONDENCE

The following correspondence was received:

Glenn Cooley, Chairman Town of Yorkshire Planning Board – Site Plan Review and SEQR for Gernatt Asphalt Products new asphalt production plant – determined that the project will not have any significant environmental impacts.

City of Salamanca – Local Law Amending the Zoning Law - Adopted.

Village of Ellicottville – Use Variance - Fourth apartment in an accessory structure at 41 Mechanic Street – approved.

Town of Allegany – Zoning Text and Map Amendments – Approved.

Town of Allegany – Zoning Ordinance Amendment – Adopted.

ADJOURNMENT

Paul Bishop called to adjourn. Charles Couture moved with a second from Paul Mager to adjourn. The meeting adjourned at 9:21 p.m.

APPROVED AS AMENDED OCTOBER 28, 2004. Amendments: Page 3, third paragraph beginning with Ann Padlo change the word “blacks” to “blocks”. Page 5 under NYS Horse Council Newsletter change the word “population” to “popular”.