

Cattaraugus County Planning Board Meeting Minutes

October 28, 2004

Location

East Otto Union School (Town Hall)
9014 East Otto-Springville Road (Co. Rd. 12)
East Otto, New York

PLANNING BOARD MEMBERS PRESENT:

Paul Bishop, Chairman
William Sprague, Vice Chairman
Ann Padlo, Secretary
Paul Mager, Assistant Secretary
Jack Berger
Kameron Brooks
Robert Keis
David Rivet

PLANNING BOARD MEMBERS ABSENT:

Tina Abrams
Charles Couture
Florence Fuller
James Rich

PLANNING DIVISION STAFF:

Thomas M. Livak, Director
Terry H. Martin, Chief Planner
David P. Paoletta, Senior Planner
Katherine J. Wagner, Planner
Margaret E. Puszcz, Stenographic Secretary

GUESTS:

James Ellis, County Legislator
James Beach, Town of East Otto Councilman
Robert Bowen, Town of East Otto Resident

Chairman Bishop called the meeting to order at 7:00 p.m.

APPROVAL OF MINUTES

Corrections to the September 30, 2004 minutes: Page 3, third paragraph, beginning with Ann Padlo, change the word "blacks" to "blocks". Page 5 under NYS Horse Council Newsletter, next to last sentence, change the word "population" to "popular".

Ann Padlo moved with a second from William Sprague to approve the September 30, 2004 minutes as corrected. Carried.

Chairman Bishop thanked Jim Ellis and Jim Beach for inviting the Planning Board to meet in the former East Otto Union School, now the Town of East Otto Town Hall.

James Ellis gave a brief history of the School Building stating that it was built in 1920-21. It originally contained all grades, and then the High School was moved to the new school in the Village of Cattaraugus. The building was closed in 1967. From 1967 until 1972 the building sat empty. Then the School Board in Cattaraugus sold the East Otto Union School Building to the Town of East Otto to be used as a Municipal Building.

The building has recently been listed on the New York State and National Registers of Historic Places.

They are currently in the process of applying for grants to renovate the roof, wiring, heating system and bathrooms.

James Beach thanked the Planning Board for their letter of support for the nominations to the State and National Registers of Historic Places and for holding their meeting here tonight. Everyone expressed appreciation for the unique design and character of this historic school building.

NEW BUSINESS

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

City of Salamanca - Site Plan Review - Skateboard Park - Sycamore Park

David Paoletta reported that the City of Salamanca has referred a Site Plan Review for the construction of a skateboard park adjacent to tennis courts on an existing parking lot in Sycamore Park. The facility is a permitted recreational use in the City Center Zoning District. The facility will reduce parking capacity, however ample off street parking will remain to comply with local zoning code parking requirements. The facility will have a negligible impact on total traffic volume on Sycamore Avenue from a trip generation standpoint. The site is located in a 500-year floodplain (as is a large percentage of property along the Allegheny River) - no impact on project. The existing storm sewers are adequate and will be retained, as there will be no increase in impermeable surface area. The hours of operation are after school until dusk during the school year and all day until dusk on other days. A public hearing was held on October 7th. No comments received. The Site Plan is adequate and in compliance with the requirements of the City of Salamanca Zoning Ordinance. The City Planning Commission is adequately addressing SEQR. Staff recommendation is approval.

David Rivet moved with a second from Paul Mager to approve the referred City of Salamanca Site Plan Review for the construction of a skateboard park adjacent to tennis courts on an existing parking lot in Sycamore Park. Carried.

City of Salamanca - Zoning Map Amendment - 316, 320-326, 356, 358 and 362 Front Avenue

David Paoletta reported that the City of Salamanca has referred a Zoning Map Amendment to change the zoning classification for six parcels from (WC) Waterfront Conservation zoning district to (R-1) Single-Family Residential district. All properties are currently residential with no waterfront access. The Zoning change will allow two-family residential units by special use permit, facilitating the renovation of some houses into rental units. The City has a recognized housing shortage. There were no negative comments at the public hearing held on September 22, 2004. The City Planning Commission is adequately addressing SEQR. Staff recommendation is approval.

Robert Keis moved with a second from Kameron Brooks to approve the referred City of Salamanca Zoning Map

Amendments to change the zoning classification for 316, 320-326, 356, 358 and 362 Front Avenue from Waterfront Conservation to Single-Family Residential. Carried.

City of Salamanca - Site Plan Review - Transportation Garage - Morningside Drive

David Paoletta reported that the City of Salamanca has referred a Site Plan Review to construct a 40' x 60' transportation garage for washing and parking of shuttle buses used to service the Seneca Allegany Casino at Morningside Drive. There will be no adverse impact on existing sewer and water service. The facility will have a minor impact on total traffic volume on local streets from a trip generation standpoint. The facility is a permitted use under the City of Salamanca Zoning Ordinance in an Industrial Zoning District. There are no environmental concerns (constraints to project) identified. A public hearing was held on October 21, 2004 with no opposition. The project is supported by the Salamanca Planning Commission. The project is exempt (Type II Action) from SEQR due to building size (under 4,000 sq. ft.). Staff recommendation is approval.

William Sprague moved with a second from David Rivet to approve the referred City of Salamanca Site Plan Review to construct a 40' x 60' transportation garage at Morningside Drive. Carried.

Village of Gowanda - Amendments to Zoning Ordinance - Signs

Kate Wagner reported that the Village of Gowanda has referred amendments to their Zoning Ordinance pertaining to signs. The current sign ordinance is comprised of one paragraph. The Village Trustees are going through the current laws and rewriting those that are out of date. SEQR was adequately reviewed. This is a local law issue with no countywide concerns. A public hearing was held October 26, 2004. The only issue brought up at that meeting was safety concerns, which is addressed in the ordinance. This law is typical of local current sign laws. The proposed ordinance meets the standards of the NYS Department of State and will improve the character in the Village. Staff recommendation is approval.

William Sprague moved with a second from Paul Mager to approve the Village of Gowanda referred amendments to their Zoning Ordinance pertaining to signs. Carried.

Village of Perrysburg - Use Variance - 11855 Main Street

David Paoletta reported that the Village of Perrysburg has referred a use variance for 11855 Main Street to allow the property owner to reside at ground level adjacent to his one bay auto repair garage. Dwelling units in Highway Commercial zoning districts are allowed by special use permit on the second floor only. Dwelling units are not permitted on the first floor. The applicant would have to meet the strict State requirements for the granting of a use variance. Opposition to the project was expressed at a public hearing held on October 20, 2004. Litigation is currently in process in the Perrysburg Village Court regarding a number of violations associated with the property. This is a local issue with no countywide or inter-municipal impacts or concerns. General Municipal Law, Section 239-m (4.) (a) provides the County Planning Board with option of reporting that the proposed action has "no significant county-wide or inter-municipal impact" and need not comment on the proposal. Given that this is a local issue, the staff recommendation is to report to the Village of Perrysburg that the proposed action has no significant countywide or inter-municipal impact and to provide no comments on the proposed action.

Robert Keis moved with a second from Ann Padlo that the Village of Perrysburg referred use variance for 11855 Main Street is a local issue and has no significant countywide or inter-municipal impact and that the County Planning Board has no comments on the proposed action. Carried.

Town of Ellicottville - Special Use Permit/Site Plan Review - 6135 Rt. 219 S

Terry Martin reported that the Town of Ellicottville has referred a Special Use Permit/Site Plan Review for 6135 Route 219 S for the Holiday Valley Medical Office Building. The Town has requested that the Planning Board

table this referral. Staff recommendation is to table.

David Rivet moved with a second from Ann Padlo to table the Town of Ellicottville referral for a Special Use Permit/Site Plan Review for 1635 Route 219 S at the Town's request. Carried. Kameron Brooks abstained.

Village of Ellicottville - Special Use Permit - Bed & Breakfast - 21 Madison St.

Kate Wagner reported that the Village of Ellicottville referred a Special (Conditional) Use Permit to convert a four-bedroom residential house into a Bed and Breakfast. The house at 21 Madison Street is located in a Village Residential district. Sections 3 and 6 of the Village of Ellicottville Local Zoning Law of 1991 allows for this type of use with a conditional (special) use permit. The proposal is in compliance with provisions for a special use permit contained within the Village Zoning Law. The proposed use is consistent with the character of the area and the surrounding land uses. A public hearing will be held on November 9, 2004. Staff recommendation is approval.

David Rivet asked if there would be sufficient off-street parking?

Kate Wagner responded that she believed that there would be.

David Paoletta explained that Village Code requires a parking plan. A referral would not come to the Planning Board if this parking plan had not been submitted and had been accepted by the Village.

Kameron Brooks moved with a second from Robert Keis to approve the referred Village of Ellicottville Special Use Permit for A Bed & Breakfast at 21 Madison Street. Carried.

Village of Ellicottville - Special Use Permit - Less Than 30 Day Rental at 17 E. Washington, 41 Mechanic Street and 5 Mechanic Street

David Paoletta reported that the Village of Ellicottville has referred three Special (Conditional) Use Permits to allow rental of property for less than 30 days at 17 East Washington Street (single family 4 bedroom home), 41 Mechanic Street (single family 4 bedroom home) and 5 Mechanic Street (single family 3 bedroom home). These rentals are allowed by conditional use permit in the Village Zoning Ordinance. They all meet all zoning and conditional use permit requirements (i.e., parking plan, setbacks, etc.) They are local issues with no inter-municipal or countywide concerns. Staff recommendation is approval of all three referrals.

David Rivet moved with a second from Kameron Brooks to approve the referred Village of Ellicottville Special Use Permit to allow rental of property for less than 30 days at 17 East Washington Street. Carried.

Ann Padlo moved with a second from David Rivet to approve the referred Village of Ellicottville Special Use Permit to allow rental of property for less than 30 days at 41 Mechanic Street. Carried.

Kameron Brooks moved with a second from Ann Padlo to approve the referred Village of Ellicottville Special Use Permit to allow rental of property for less than 30 days at 5 Mechanic Street. Carried.

Town of Freedom - Amendment to Land Use Ordinance

Terry Martin reported that correspondence has been received from the Town of Freedom indicating that the Town of Freedom adopted the amendments to the Land Use Ordinance on September 18, 2004, which is prior to County Planning Board action on September 30, 2004. The correspondence also indicated that they "Overruled County Planning Board recommendations" even though the County Planning Board had not yet acted at the time the town met on September 18, 2004. It seems clear that there is a lot of confusion in the town about whether or not this is a zoning ordinance, and as to the procedures that are required by state statute. There is a need for training services here.

Terry Martin stated that when this item came before the Board, there was a question as to whether or not this Flood Plain Ordinance was actually a zoning ordinance. Harry Willis, Attorney for the Department of State in Albany and said that with all of its zoning-like features, it looks like a zoning ordinance and therefore should be treated as one.

These actions by the Town are technical procedural errors. He will follow up with the Town Attorney.

Environmental Review

Village of Ellicottville - Solicitation for SEQR Lead Agency Status - Proposed 80 Room Hotel

Terry Martin reported that the Village of Ellicottville is seeking SEQR Lead Agency Status for the proposed 80-room hotel. He stated that since the developer had presented the preliminary plans for the hotel to the Planning Board, they have revised the Site Plan. However, the entire site is in the 100 year flood plain. This building could impede the flow of water during a 100 year flood. Becky Anderson, NYSDEC has been meeting with the community and the developer to resolve this issue. Three new bridges have recently been built in the vicinity with increased capacity for water flowing under the bridges. The developer has agreed to assist with a study on the flood flow under the three new bridges to determine if the increased capacity is sufficient to off-set 100 year flood problems on the proposed hotel site.

Staff recommendation is that the County Planning Board should have no objections to the Village of Ellicottville Planning Board as SEQR Lead Agency for this action with two advisories. One, if study shows that the capacity of the three new bridges is not enough to solve the 100 year flood problem, that as an alternative to killing the project, the developer should look into a design solution by placing the parking lot as the first floor of the building with a height variance so that during a 100 year flood the water can flow under the building through the parking area. The second advisory is that a traffic study should consider the effects of Village Festivals on the traffic. This is a peak volume problem.

David Rivet stated that the level of service capacity for traffic volumes should be looked at as well as an improved intersection design, along with peak traffic not only during festivals but during the ski season.

Bill Sprague stated that he has reservations about the County Planning Board recommending specific revisions of the building/parking lot site plan because of liability issues.

David Rivet stated that he agrees with Bill but also with Terry.

Robert Keis stated that the design solution could be a good idea.

David Rivet stated that we should let them come up with the alternative design.

David Paoletta stated that perhaps retention ponds could be used, located elsewhere away from the site.

David Rivet stated that usually retention ponds are used upstream. The problem here is that two or three streams come together in the Village. This site has been the retention pond in the past. Hopefully the new bridges with their increased capacity will be the answer.

Bob Keis said that during floods the volume of water coming through the village is so great that retention ponds would not solve the problem.

Kameron Brooks stated that everyone is so afraid to suggest something because of liability. He doesn't believe we would be liable if we suggested the design changes Terry mentioned.

Upon further discussion, William Sprague moved with a second from Ann Padlo that the County Planning Board

has no objections to the Village of Ellicottville Planning Board as Lead Agency for this action. The County Planning Board had questions for this SEQR review, and would suggest the following advisories: (1) If the study of flood flow under the three new bridges does not show sufficient capacity to off-set 100 year flood problems on the proposed hotel site, the developer should, as a mitigative measure, consider alternative designs in the site plan to allow or improve the flow of flood water through the site; (2) The Traffic Study should consider (a) peak traffic generated by the various festivals, special events and during peak ski season weekends and (b) the potential benefit of adding a left turning lane off Washington onto Mill Street. Carried.

Intergovernmental Reviews

Kate Wagner reported that one Intergovernmental Review had been received (STW #04.040). This project is for the Snow Bounders, Inc. TEA-21 Grant Application to enable them to purchase a groomer to maintain 150 miles of snowmobile trails. Staff recommendation is a letter of support.

David Rivet moved with a second from Paul Mager to send a letter of support to the Snow Bounder's club for their TEA-21 Grant Application to enable them to purchase a groomer to maintain the Clubs snowmobile trails. The County currently has a trails initiative with an overall vision for the future that envisions multi-use trails for all four seasons. By improving, through grooming, the quality of snowmobile trails, the Snow Bounders fall right in line with our vision. Carried.

OLD BUSINESS

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

David Paoletta stated that as reported last month, the County has received notification from the New York State Department of Agriculture and Markets to start the Eight-Year Review Process for the Perrysburg-Dayton-Leon Agricultural District. The Planning staff on behalf of the County Legislature will send out a 30-Day Notice of Public Review to the Supervisors, Clerks, Planning Board Chairs and Assessors of the three townships in the Ag district. It will also be sent to the Ag & Farmland Protection Board, County Planning Board, Development & Agriculture Committee, Cornell Cooperative Extension, Farm Bureau and News Media. Any property owner within the District can propose a change either to put property in or take property out. Joan Petzen will be organizing a meeting of the local farmers who can advise on which properties are still viable and which ones should be taken out.

David Paoletta stated that once it has been determined what properties should remain in, which ones should be taken out and which ones should be added, the modified district proposal will be presented to the Planning Board and Ag & Farmland Protection Board for their review. We have 300 days to complete this process.

Terry Martin asked what preparations are being made for the 30-day window that was established last year for each January, which allows property owners to join an ag district in-between the eight year reviews.

David Paoletta stated that 30-day window is for Ag districts that are not currently under review. Last year, he received many inquiries but most did not meet the \$10,000 profit criteria and/or realized that they could receive the same assessment benefit by applying for the Ag Value Exemption. He said that a notice will be published.

Discussion concerning advantages of agricultural districts.

Agricultural and Farmland Protection Plan Grant Application Submittal

David Paoletta reported that after reviewing the Agricultural and Farmland Protection Plan Grant Application with the Planning Board last month, the Development and Agriculture Committee reviewed it then Jess Fitzpatrick, Chairman of the Legislature signed it and it was sent to the NYS Department of Agriculture and Markets. We should be notified within the next 30 days as to whether or not the County will receive the grant.

Special Projects Committee Meeting Minutes

Terry Martin stated that the Planning Board needs to ratify the Special Projects Committee Meeting Minutes that were presented at last month's meeting.

William Sprague moved with a second from Ann Padlo to approve and ratify the Special Projects Committee meeting minutes of September 13, 2004 as submitted. Carried.

Reports

Chairman's Report

November/December Meeting

Chairman Bishop reported that the November meeting date falls on Thanksgiving. Traditionally, the Board has moved its meeting to the first or second Thursday of December, making that meeting its last meeting of the year. Which date would be best for the members?

It was noted that the Supervisor's Association traditionally holds its Christmas Dinner meeting on the first Thursday of December.

Upon discussion, it was determined to hold the last meeting of the year for the County Planning Board on December 9th. Staff will send notices to all municipalities and the news media.

Municipal Exemptions to Zoning Referrals

Terry Martin stated that at last months meeting, Kameron Brooks and Robert Keis agreed to work with him on establishing Exemption Agreements which can be keyed to each municipality. Terry has now compiled several items relating to this issue and will make copies for them.

Robert Keis stated that he would like to have get one established for the Town of Mansfield which could then be used for other municipalities similar to Mansfield.

Members Forum

Ann Padlo asked about the vacant West Valley building.

David Paoletta stated that Southern Tier West is spear heading a site reuse study. NYSERDA and DOE need to come to an agreement.

Robert Keis stated that there has been community resistance for the economic studies.

William Sprague stated we should keep an eye on the proposed wood chip burning plant in Ellicottville. Dust pollution and smoke could ruin the ambiance of the area. He feels that it's a great idea but not there in Ellicottville.

William Sprague also noted that the Town of Yorkshire is being sued on a gravel issue. The Supervisor had sent a letter saying that the project was ok'd by the Town Council. However, Town Councilmen later voted against it and the letter was rescinded.

Director's Report

2005 Budget - Tom Livak reported that it is Budget Season. The Legislature will be looking at the overall budget and trying to find ways to make cuts.

Salamanca Area Planning Initiative Working Group - Tom also reported that STW has organized a Salamanca Area Planning Initiative Working Group with regard to seeing how the City of Salamanca and surrounding area can work together to foster economic development and sharing of information. Some of the topics are Casino development, small business sales and service to Casino workers and clients. Other issues are housing and revitalization of properties.

Bob Keis stated that STW is acting as a neutral facilitator.

Tom Livak stated that David Paoletta has been working with the City for a year now and building a good relationship there.

Snowmobile Trails Brochure - Tom Livak distributed copies of a new Snowmobile Trails Brochure that the Department has created on GIS. The Department will be printing 8,000 for distribution. The County continues to assist the Federation of Snowmobile Clubs to get its trail grant monies from NYS.

Wind Farms - Tom Livak reported that the Department has had several inquiries from Wind Farm companies. We have been helping them with contacts with local municipalities.

Terry Martin reported that he had hooked them up with five local contacts across the county, including Bob Keis and Bill Sprague.

Robert Keis stated that the Town of Mansfield had met with the company who wants to build this Wind Farm. It was a very interesting meeting.

Discussion about Wind Farms and the economic viability of them.

STW Report

Robert Keis reported that the STW Board met October 27, 2004. They received the final ranking on ARC projects. There will be approximately \$600,000 coming to the area through the ARC grants. There are four projects from the STW Region that are recommended for funding and four additional projects are listed as standby projects.

The ARC Strategic Plan for 2005-2010 goals have changed from 5 to 4. They are:

- Goal 1: Increase Job Opportunities and Per Capita Income in Appalachia to Reach Parity with the Nation;
- Goal 2: Strengthen the Capacity of the People of Appalachia to Compete in the Global Economy;
- Goal 3: Develop and Improve Appalachia's Infrastructure to Make the Region Economically Competitive; and
- Goal 4: Build the Appalachian Development Highway System to Reduce Appalachia's Isolation.

The STW Board has received the 2004 Innovation Award given by the National Association Development Organization (NADO) for the DiscoverSouthwestNY.com website. Currently the featured tour on the web site is the City of Jamestown. Tours will be featured on the website on an occasional basis and previous tours will be archived. It is anticipated that the tours will eventually become links from sites within the website and CDs will be produced of each tour.

Other Business

Terry Martin stated that he had received a call from a member of the NYS Horse Council from downstate after they had read the recent Newsletter produced by Cattaraugus County. This member indicated that they want to come and explore Cattaraugus County, and maybe move here, as a result of reading about us in the Newsletter.

He said he referred her to Al Gerstung of Franklinville and Teri Parker of Little Valley for follow-up.

Correspondence

The following correspondence has been received:

- Town of Freedom - Amendment to Land Use Ordinance - Adopted on September 18, 2004, which is prior to County Planning Board action on September 30, 2004. Also indicated that they "Overruled County Planning Board recommendations".
- Village of Ellicottville - Zoning Map Amendment to re-zone a parcel of land from the existing "Industrial" land use class to "Village Commercial" land use classification at Mill Street to Great Valley Creek to Elk Creek to north of Maybee Alley - Approved.
- Village of Ellicottville - Special Use Permit - Less than 30 Day Rental - 63 Elizabeth Street - Approved with conditions.
- Village of Ellicottville - Special Use Permit - Less Than 30 Day Rental - 29 Elizabeth Street - Approved with conditions.
- Town of Ellicottville - Area Variance - Front yard setback - 5344 Beavers Meadows Road - granted.

Adjournment

William Sprague moved with a second from Robert Keis to adjourn the meeting at 8:40 p.m. Carried.

Legislator Ellis and Councilman Beach provided cider, donuts and tours of the Historic East Otto Union School Building following the meeting.

APPROVED DECEMBER 9, 2004.

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