

Cattaraugus County Planning Board
County Center, Little Valley, NY
April 29, 2010
7:00 pm

PLANNING BOARD MEMBERS PRESENT: Charles Couture, Chairman
Paul Mager, Vice Chairman
Michael Zaprowski, Assist. Sec.
Kameron Brooks
Florence Fuller
Richard Fuller
Robert Keis
David McCoy
Mark Smith

PLANNING BOARD MEMBERS ABSENT: Ann Padlo, Secretary
Tina Abrams
Jack Berger
David Rivet

PLANNING DIVISION STAFF: James H. Isaacson, Senior Planner
Paul R. Bishop, Planner
Margaret E. Puszcz, Stenographic Secretary

GUESTS: Carol Horowitz, Towns of Allegany and Ellicottville Planner
Richard Kellogg
Jerry and Barbara Severtson
Dale and Nancy Shively
David O'Dell
Alan Henderson
William Boser
Dave Boser
Raymond Mosmen
Gary Abraham

Chairman Couture called the meeting to order at 7:02 p.m.

APPROVAL OF MINUTES

Paul Bishop stated that a correction was needed on Page 5 under Census 2010 third line, change "WQWE" to WGWE.

Paul Mager moved with a second from Kameron Brooks to approve the March 25, 2010 minutes as corrected. Carried.

NEW BUSINESS**General Municipal Law Section 239 (l) & (m) Referrals****Town of Randolph – Special Use Permit – 12749 W. Main Street**

James Isaacson reported that the Town of Randolph Zoning Board of Appeals has referred a Special Use Permit request to allow a lawn mower sales and service business to locate adjacent to 12749 W. Main Street (Tax Map No. 69.004-1-36.1) in the Ag-Forestry District. The parcel is a NYS Ag District parcel. The request involves the construction of a 30' x 53' pole barn. The building would be set back even with the existing house (approximately 200 feet). The driveway would come off the applicant's existing residential driveway. An Ag Data Statement was not included, though this is referred to the County because of the proximity to an Ag district parcel. All abutting land owners were notified through the public hearing notice. This is an Unlisted Action under SEQR. A public hearing has been scheduled for May 6, 2010. Staff recommendation is local issue, no significant countywide or inter-community impact with the advisory that the Agricultural Data Statement be submitted to the County Planning Office.

Kameron Brooks moved with a second from Paul Mager that the Town of Randolph Zoning Board of Appeals' referred Special Use Permit request to allow a lawn mower sales and service business to locate adjacent to 12749 W. Main Street in an Ag-Forestry District is a local issue with no significant countywide or inter-community impact with the advisory that the Agricultural Data Statement be submitted to the County Planning Office. Carried.

Town of Ellicottville – Area Variance – 3 Rogers Road

James Isaacson reported that the Town of Ellicottville Zoning Board of Appeals has referred an Area Variance to construct a new single family residence approximately 22 feet from the front property line where the zoning ordinance requires 60 feet at 3 Rogers Road (Tax Map No. 56.001-1-25.9). It is on a five acre corner lot just off County Road 71 (Sugartown Road). The house will be set back 22 feet from Rogers Road, which currently only serves one residence. Access is from Rogers Road. There will be no impacts to the County Road. This is a Type 2 Action under SEQR. A public hearing is scheduled for May 6, 2010. Staff recommendation is local issue, no countywide or inter-community impacts.

Richard Fuller moved with a second from Kameron Brooks that the Town of Ellicottville Zoning Board of Appeals' referred Area Variance request to construct a new single family residence approximately 22 feet from the front property line where the zoning requires 60 feet at 3 Rogers Road is a local issue with no countywide or inter-community impacts. Carried.

Town of Allegany – Area Variance – 3250 N. Nine Mile Road

Paul Bishop reported that the Town of Allegany Zoning Board of Appeals has referred an Area Variance to allow a rear yard setback of 15 feet, where the zoning ordinance requires 35 feet at 3250 N. Nine Mile Road (Tax Map No. 84.001-1-25). The applicant wishes to replace an existing 16' x 24' cabin in the north central portion of the lot with a new 24' x 36' cabin in the northeast corner of the lot. The new cabin will be within 15' of the rear yard property line (35' setback is required by zoning law) to allow room for the septic system on the lower part of the property. The property fronts on the N. Nine Mile Rd. and is surrounded on three sides by the Nine Mile Creek State Forest. SEQR is not required. A public hearing has not been scheduled.

Staff recommendation is that the proposed action has no significant countywide or inter-municipal impact.

Michael Zaprowski moved with a second from David McCoy that the Town of Allegany Zoning Board of Appeals' referred area variance to allow a rear yard setback of 15 feet, where the zoning ordinance requires 35 feet at 3250 N. Nine Mile Road has no significant countywide or inter-municipal impact. Carried.

Environmental Reviews

Allegany State Park Draft Master Plan and DEIS

Paul Bishop reported that the Allegany State Park Draft Master Plan and DEIS came out in mid April. Staff will be reviewing it and will be attending one of the public hearings scheduled for Wednesday May 12th in the Auditorium of the Salamanca High School and Thursday, May 13th at the Buffalo and Erie County Library. Written comments will be accepted until May 28th. He requested the Board's permission to forward comments on their behalf. The Board concurred.

Allegany Wind Power Project DEIS

Paul Bishop reported that the Allegany Wind Power Project applicant wishes to construct a 29 turbine Wind Energy Conversion System (WECS) facility in the area of Chipmonk Road in the Town of Allegany. The project will be developed on leased private land totaling 9,119 acres. The project construction is anticipated to occur in a single phase, starting in the spring of 2011 with completion by December 31, 2011. Once built, the wind turbines and associated components will operate in an almost completely automated fashion. The project will, however, employ up to six operations and maintenance personnel. The completed project will result in approximately 27 acres of built facilities. The first turbine of the western group is 3.5 miles from I-86. The first turbine of the eastern group is 2.5 miles from I-86. Some issues that the staff has identified are: 1) There may be possible negative effects on tourism with views of the Project from Allegany State Park. A visual simulation of the Project should be done from the ridge tops of the eastern facing slope of Allegany State Park located to the west of Route 219. 2) Several of the visual simulations, such as the one from Interstate 86, only seem to show either the east side or the west side of the Project when it is obvious that both sides would be visible from that location. Further simulations should be done to show the total Project, without obstructions, at those locations. 3) If construction does take place, then Chipmonk Road, post-construction, should be upgraded to account for increased traffic due to those that want to observe the turbines up close.

There were several residents in attendance who expressed their concerns with the project such as noise impacts, visual impacts on the beauty of the hills, truck trips through Olean and Route 16 during construction of the project.

David McCoy moved with a second from Florence Fuller to support the staff's review of the Allegany Wind Power Project DEIS and to forward the above three comments to the Town of Allegany Planning Board. Carried.

Intergovernmental Reviews

Paul Bishop reported that Intergovernmental Reviews numbered STW#10.013 through STW#10.019 have been received. He noted that both the Village of Sherman and the Town of Charlotte in Chautauqua County are going to create a community based, for-profit development team to study the feasibility of a community based wind energy project. Staff recommendation is received, reviewed, no comments. The Board concurred.

OLD BUSINESS

Town of Allegany – Zoning Map Amendment (Establishment of Wind Overlay Zoning District) / Special Use Permit / Site Plan Review – Allegany Wind Power Project

Paul Bishop reported that this referral from the Town of Allegany was tabled at last month's meeting due to the complexity of the project and so that staff would have more time to review it. The applicant is proposing to construct a 29 turbine Wind Energy Conversion System (WECS) facility in the area of Chipmonk Road. This is a Type 1 Action under SEQR with a Positive Declaration resulting in a Draft Environmental Impact Statement (DEIS). An Ag Data Statement has been submitted and a public hearing was held on April 21, 2010. There are 3 different items requiring action.

1) Special Use Permit

A Special Use Permit is necessary to allow a Wind Energy Conversion System (WECS) in the Agricultural-Forestry Zone. Staff recommendation is approval.

Kameron Brooks moved with a second from Michael Zaprowski that the Town of Allegany Planning Board's referred Special Use Permit to allow a Wind Energy Conversion System (WECS) in the Agricultural-Forestry Zone is approved. Carried.

2) Site Plan Review

Site Plan Review of the construction of the Allegany Wind Power Project in the area of Chipmonk Road which will result in 29 turbines and related facilities on approximately 27 developed acres. Staff recommendation is approval.

Kameron Brooks moved with a second from Richard Fuller that the Town of Allegany Planning Board's referred Site Plan Review of the Allegany Wind Power Project in the area of Chipmonk Road which will result in 29 turbines and related facilities on approximately 27 developed acres be approved. Carried.

3) Zoning Map Amendment

The Zoning Map Amendment is to place the parcels into the Wind Energy Overlay (WE) Zoning District. Paul Bishop stated that the County does not have the Zoning Map for the Overlay Zoning District.

Discussion.

Staff recommendation is that this is an incomplete referral due to the lack of a zoning map showing the Wind Energy Overlay Zoning District.

Michael Zaprowski moved with a second from David McCoy that the Town of Allegany's referred Zoning Map Amendment to place the parcels of the Allegany Wind Power Project into the Wind Energy Overlay (WE) zoning district is an incomplete referral due to the lack of a zoning map showing the Wind Energy Overlay Zoning District. Carried.

Town of Allegany – Special Use Permit/Site Plan Review – 1474 Four Mile Road

James Isaacson reported that the County Planning Board had reviewed and denied this Town of Allegany Planning Board referral last month for a Special Use Permit to allow an agricultural use in an R-1 zoning district at 1474 Four Mile Road for three reasons: potential impacts from manure runoff on neighbor's well; inadequate fencing and unsupervised nature of animals. The Town has requested clarification.

Carol Horowitz stated that the Town Planning Board had a second letter from the Health Department with regards to the private well which the County Planning Board did not have.

James Isaacson stated that with the Board's permission, he will write a letter of clarification for Chairman Couture's signature, as follows:

- 1) State that the Board was aware of the County Health Department's conclusions that there would be no impacts on the public water supply that services the Sherwood Mobile Home Court. However, the Board was unsure whether the neighboring private wells downstream from the site would not be impacted by manure contaminants running off the trailer, and believed there may be impacts to these water sources across the street. Since the Board's meeting, the County Health Department has looked at this issue and concluded that there is not likely to be any impacts to neighboring private wells. The Board acknowledges this new information and accepts these findings.
- 2) State that the Board felt that the fencing, as described in the application, was inadequate to contain the animals and note that since our meeting, this has proven itself to be true – the calves have escaped their enclosure on at least one occasion, thus proving that the fencing is not adequate to contain the animals.
- 3) State that the Board was very concerned about the unsupervised nature of this situation, noting that Mr. Gilray is on site briefly twice a day to feed and clean up after the animals and noting that should the animals get loose, there should be someone nearby who can respond immediately to the situation and corral the loose animals. In a more rural setting where there are fewer residents and less traffic, this would be less of a concern. This neighborhood, however, is a more populated residential area with more traffic on the road than in a rural area; the potential for the animals to cause damage to nearby homes, automobiles and yards or disrupt traffic on the roadway is greater, and an immediate on-site presence is needed to avert any impacts. And
- 4) State that the Board believed the proposal to allow these animals in a residential area would cause concerns to the neighboring residents in the event that the animals get loose. Therefore, the Board felt not allowing the use in this residential neighborhood was the best course of action to alleviate these concerns.

Paul Mager moved with a second from Mark Smith to authorize Chairman Couture to sign the above described letter of clarification to the Town of Allegany Planning Board concerning the Board's denial last month of the Special Use Permit to allow an agricultural use in an R-1 zoning district. Carried.

REPORTS

Chairman's Report

Route 219 – Chairman Couture reported that construction has started up again on the section between Springville and Peters Road and that projections are for it to be opened in late fall.

Annual Meeting – The date for the annual meeting has been set for Wednesday, July 28th with the location to be determined. Possible topics for the meeting – village consolidation and shared municipal services or the position of municipal government in economic development.

Community Leadership Award recipient will be the one suggested by David McCoy at the last meeting.

Department Reports

Census 2010 – Paul Bishop reported that starting May 1st, Census workers will be going door to door of those residents that did not send back their Census Questionnaires. There will be training here in the County Building all next week for those who will be doing the task.

Ag & Farmland Protection Board Workshop – Paul Bishop reported that there were 63 people in attendance at the Ag & Farmland Protection Board's Local Planning for Agriculture Workshop held on March 30th at the Great Valley Municipal Building. The Business Development Corporation gave a brief presentation on what types of loans they have available for farmers.

Other – Paul Bishop reported that the Town of Ellicottville is interested in entering into a Zoning Referral Exemption Agreement with the County Planning Board. This agreement could possibly be on next month's agenda.

STW Report

Robert Keis reported that the **STW's Annual Local Government Conference** is May 5th at Houghton College and is open to all municipal officials. He encouraged everyone to attend.

Mr. Keis also reported that the US Department of Commerce Economic Development Administration requires STW to annually prepare a **Comprehensive Economic Development Strategy (CEDS)** document, which is a strategic plan that provides direction for diversifying and strengthening our region's economy. The CEDS analyzes our region's economy, specifies regional goals and objectives, specifies a regional plan of action for achieving these goals and objectives (i.e., strategies for doing so), and identifies priority projects and funding sources to implement these strategies. STW has developed a time table to review and update the CEDS so that a final CEDS document can be transmitted to the EDA prior to the September 30 due date. Cattaraugus County will have input to the document. If anyone has projects that they think would qualify for listing in this CEDS document, please contact STW with them.

Members Forum

Michael Zaprowski described a tour that he had taken near Tully, New York of a “mud boil”.

David McCoy reported that there is money out there if you know where to look for it: Tiger II has money for regional planning. HUD has money for sustainable communities. FEMA has money for assistance to fire companies such as training and equipment.

Kameron Brooks reported that a large rock has been placed at the Pat McGee Trail Head that will be used to mount a plaque commemorating the Bicentennial Wagon Train. He also noted that the LDC needs a pickup truck that would hopefully be donated to the LDC.

CORRESPONDENCE – None

Next Meeting – May 27, 2010

ADJOURNMENT

Kameron Brooks moved with a second from Mark Smith to adjourn the meeting at 8:52 pm. Carried.

APPROVED AS SUBMITTED ON MAY 27, 2010.