

Cattaraugus County Planning Board  
County Center, Little Valley, NY  
June 25, 2009  
7:00 pm

PLANNING BOARD MEMBERS PRESENT: Charles Couture, Chairman  
Paul Mager, Vice Chairman  
Ann Padlo, Secretary  
Michael Zaprowski, Assist. Sec.  
Tina Abrams  
Jack Berger  
Kameron Brooks  
Florence Fuller  
Robert Keis  
David Rivet  
Mark Smith

PLANNING BOARD MEMBERS ABSENT: Richard Fuller  
David McCoy

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

GUESTS: Lisa Uschold, Town of Yorkshire Use Variance – Vet Clinic

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

### **APPROVAL OF MINUTES**

*Michael Zaprowski moved with a second from Robert Keis to approve the May 28, 2009 meeting minutes as submitted. Carried.*

### **NEW BUSINESS**

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

#### **Town of Yorkshire – Use Variance – 12129 NYS Rt. 16**

James Isaacson reported that the Town of Yorkshire Zoning Board of Appeals has referred a use variance request to allow the expansion of an existing veterinary clinic building at 12129 NYS Route 16 (Tax Map No. 4.002-1-23). The building would be expanding from 3600 s.f. to just over 6,000 s.f. It will include additional space for the care of animals, office space and storage. This

is a nonconforming use as veterinary clinics are not a permitted use in the commercial zoning district. The additions will be to the rear and parking lot side of the building. There is a State wetland present at the rear of the property, but will not be affected by the expansion. This is a Type 2 Action under SEQR. A public hearing was held on June 10, 2009. Staff recommendation is approval.

Lisa Uschold representing the Veterinary Clinic stated that the expansion is necessary due to increased demand for their services.

Mike Zaprowski stated that he didn't believe that a use variance was the most appropriate means of approval for an existing nonconforming use that is expanding. Proving a hardship in this situation would be quite difficult. He felt that the Town should amend their zoning ordinance to allow the use in the district either outright or by a Special Use Permit.

*Upon discussion, Paul Mager moved with a second from Michael Zaprowski to approve with an advisory on Use Variance test requirements and zoning law amendment the referred Use Variance from the Town of Yorkshire Zoning Board of Appeals for the expansion of an existing veterinarian business at 12129 NYS Rt. 16. Carried.*

### **Village of Ellicottville – Zoning Text & Map Amendments**

Paul Bishop reported that the Village of Ellicottville has referred an update and amendments to the Village of Ellicottville Zoning Local Law and Map of 2005. Over the past several years, numerous changes were needed to adjust the zoning requirements to changes in State and Local Laws and changes in land use practices and procedures. Some highlights include: a) ski lifts, ski slopes and ski trails are not permitted in any district. b) drive-throughs not permitted except for financial institutions in the VC-1 and VC-2 districts. c) limited an individual retail business to a maximum of 40,000 gross square feet. d) combining of two or more lots for expansion of an existing building or for a new development is prohibited. e) significant changes to the Master Planned Development section. In Section 10, Paragraph 14. there is a need to clarify that the regulations for Temporary Portable Accessory Structures do not apply to tents, gazebos and canopies used for *residential* recreational purposes. This is a Type 1 Action under SEQR with a Full EAF completed. The Village Board is seeking Lead Agency status. A public hearing has not been scheduled.

Staff recommendation is approval with an advisory: In Section 10, paragraph 14. Clarify the wording to make it clear that the regulations for Temporary Portable Accessory Structures do not apply to tents, gazebos and canopies used for *residential* recreational purposes.

*Upon discussion, Ann Padlo moved with a second from David Rivet to approve with an advisory the referred Village of Ellicottville update and amendments to their Zoning Local Law of 2005. The advisory is as follows: In Section 10, paragraph 14. Clarify the wording to make it clear that the regulations for Temporary Portable Accessory Structures do not apply to tents, gazebos and canopies used for residential recreational purposes. Carried.*

**Town of Little Valley – Special Use Permits – 4768 Rt. 353 – Convenience Store, Produce Stand and Sale of Used Autos**

James Isaacson reported that the Town of Little Valley Planning Board has referred three Special Use Permits for 4768 Route 353 (Tax Map No. 64.003-1-42.3) to open a produce stand, convenience store and used car lot at the Elkdale RV Resort. The produce stand would be on one side of the convenience store building and the used car lot on the other side. Parking would be in front of the store for the produce stand and convenience store. There is sufficient room to pull out of parking spots without backing into traffic on Route 353. Individually, none of the proposed uses has a countywide or intercommunity impact. Cumulatively, the only potential impact would be traffic levels; however, the produce stand would be seasonal, the car lot would not generate a lot of additional traffic and the convenience store is relatively small. Traffic would not adversely impact the state highway. Staff recommendation is approval of each one individually and collectively.

Considerable discussion concerning each of the proposed businesses and the traffic flow in and out and the merging into traffic on Route 353.

**Convenience Store**

*David Rivet moved with a second from Tina Abrams to approve the Town of Little Valley Planning Board's referred Special Use Permit for Commercial use of premises at 4768 Rt. 353 for a convenience store. Carried.*

**Produce Stand**

*Michael Zaprowski moved with a second from Florence Fuller to approve the Town of Little Valley Planning Board's referred Special Use Permit for Commercial use of premises at 4768 Rt. 353 for a produce stand. Carried.*

**Sale of Used Autos**

*Robert Keis moved with a second from Kameron Brooks to approve the Town of Little Valley Planning Board's referred Special Use Permit for Commercial use of premises at 4768 Rt. 353 for the sale of used autos.*

Discussion.

*Kameron Brooks moved with a second from Mark Smith to amend the motion to include an advisory that the Town should address ingress/egress to designated area(s). Carried.*

*Chairman Couture called for a vote on the original resolution as amended. Motion as amended carried.*

### **Town of Ellicottville – Comprehensive Plan Amendments**

Paul Bishop reported that the Town of Ellicottville has referred amendments to its Comprehensive Plan. The minor amendments to the text and map of the Town's 2006 Comprehensive Plan provide additional policy guidance for certain provisions in the Draft Zoning Law. The amendments address the following:

- (1) Mobile (manufactured) home parks - not needed, but will allow individual mobile (manufactured) homes on single-family lots in low-density areas.
- (2) It is recommended that junkyards not be allowed in the Town.
- (3) The Town desires to encourage "cluster subdivisions" of townhouses and other attached single-family homes in order to minimize driveway entrances and protect scenic resources or environmentally sensitive areas.

Under SEQR a Full EAF has been completed. A public hearing has not been scheduled. Staff Recommendation is approval.

Robert Keis stated that he believed that mobile home parks and junkyards must be allowed somewhere within the town.

*Upon further discussion, Robert Keis moved with a second from Michael Zaprowski to **Table** the Town of Ellicottville's referred amendments to its 2006 Comprehensive Plan in lieu of legal opinion on not allowing Mobile Home Parks and Junkyards in the Town and suggested they review legality with the Town Attorney. Carried.*

### **Town of Ellicottville – Zoning Text and Map Amendments**

Paul Bishop reported that the Town of Ellicottville has referred a complete revision of its 1990 Zoning Ordinance, to now be known as the 2009 Zoning Law. Numerous changes have been made, some of which include:

- (1) Substantial changes to the "Definitions" chapter.
- (2) The Light Industrial Service Commercial (LI-SC) District was eliminated.
- (3) Minimum lot sizes increased in the Agricultural-Residential and the Residential Development Districts.
- (4) Minimum open space requirement added to several districts.
- (5) Provisions for mobile home parks were deleted, since they are no longer permitted.
- (6) Home Occupations were further categorized into Major and Minor Home Occupations.
- (7) Reduced excavating setbacks from property line from 1000 feet to 200 feet and setback from inhabited dwellings from 1000 feet to 500 feet.
- (8) Added new sections on Accessory Apartments, Significant Ridgeline Overlay Districts, Hillside Development, and Outdoor Lighting Standards.
- (9) Added new Article 13 - Design Standards.

The Zoning Map was adjusted to reflect the changes made to the Zoning Law and Comprehensive Plan. A SEQR Full EAF has been completed. A public hearing has not been scheduled. Staff recommendation is approval.

Florence Fuller moved with a second from Michael Zaprowski to **Table** the Town of Ellicottville's referred revision of its 1990 zoning Ordinance in lieu of legal opinion on not allowing Mobile Home Parks and Junkyards in the Town and suggested they review legality with the Town Attorney. Carried.

### **Town of Ashford – Wind Energy Facilities Local Law**

Paul Bishop reported that the Town of Ashford does not have zoning so they are proposing this "Wind Energy Facilities Law" in order to promote the effective and efficient use of the Town's wind energy resource and to regulate the placement of wind energy facilities so that public health, safety and welfare will not be jeopardized. The Law covers Wind Measurement Towers, Small-scale Wind Energy Conversion Systems (up to 100 kW/hour) and Wind Energy Conversion Systems. This Law is very similar to several recent ones we have reviewed and was prepared by the Town's attorney. A SEQR Full EAF has been completed. A public hearing is scheduled for June 30, 2009. Staff recommendation is that the proposed action has no significant county-wide or inter-municipal impact.

Kameron Brooks moved with a second from Ann Padlo that the Town of Ashford's Wind Energy Facilities Law has no significant countywide or inter-municipal impact. Carried.

### **Environmental Reviews**

#### **Village of Ellicottville – SEQR Lead Agency – Zoning Text & Map Amendments**

Paul Bishop reported that the Village of Ellicottville Board of Trustees is seeking to function as Lead Agency for the Village of Ellicottville Update/Amendments to the Zoning Local Law of 2005 pursuant to Part 617.6(b) of the NYS Environmental Quality Review (SEQR) Act. Staff recommendation is concurrence as an Interested Agency.

Jack Berger moved with a second from Paul Mager to concur, as an Interested Agency, with the Village of Ellicottville Board of Trustees functioning as Lead Agency for the Village of Ellicottville Update/Amendments to their Zoning Local Law of 2005 pursuant to Part 617.6(b) of the NYS Environmental Quality Review (SEQR) Act. Carried.

#### **City of Olean – SEQR Review – East Olean Sanitary Sewer Improvement Project**

Paul Bishop reported that the City of Olean Common Council is seeking to function as Lead Agency for the East Olean Sanitary Sewer Improvement Project pursuant to Part 617.6(b) of the NYS Environmental Quality Review (SEQR) Act. Staff recommendation is concurrence as an Interested Agency.

Robert Keis moved with a second from Ann Padlo to concur, as an Interested Agency, with the City of Olean Common Council functioning as Lead Agency for the East Olean Sanitary Sewer Improvement Project pursuant to Part 617.6(b) of the NYS Environmental Quality Review (SEQR) Act. Carried.

### **City of Olean – Floodplains & Wetlands Management Review – East Olean Sanitary Sewer Improvement Project**

Paul Bishop reported that the City of Olean is soliciting objections or comments regarding floodplains and wetlands review for the East Olean Sanitary Sewer Improvement Project per the requirements of Executive Order 11988: Floodplain Management and Executive Order 11990: Protection of Wetlands.

**Executive Order 11988: Floodplain Management** is an order given by President Carter in 1977 to avoid the adverse impacts associated with the occupancy and modification of floodplains.

**Executive Order 11990: Protection of Wetlands** is an order given by President Carter in 1977

Staff recommendation is that no action is required.

### **Intergovernmental Reviews**

Paul Bishop reported that Intergovernmental Reviews numbered STW #09-023 through STW #09-029 have been received, reviewed with no comments. Board members concurred. It was noted that the STW#09-024 is by the Village of Ellicottville, which is proposing construction of a new Village Hall to be connected to the existing Village DPW building and replacement of the DPW building roof.

### **OLD BUSINESS**

#### **Town of Great Valley – Referral Exemptions Agreement**

Chairman Couture reported that at the last meeting the Town of Great Valley Referral Exemptions Agreement was presented to the County Planning Board for its approval. However, the Chairman of the Great Valley Planning Board had signed the agreement instead of the Town Supervisor. Therefore, this Board approved the Zoning Referral Exemption Agreement with the condition that the Town Supervisor signs the Agreement and the Chairman of the County Planning Board signs the Agreement once the Town of Great Valley Supervisor has signed it. All of this has been accomplished as of June 12, 2009.

Chairman Couture also noted that the Town of Ellicottville is reviewing an agreement.

### **REPORTS**

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

**Annual Meeting** – Margaret Puszcz distributed the invitations to the Annual Dinner Meeting, and indicated that they had been mailed earlier in the week to all County Legislators, Municipal Officials: Mayors/Supervisors and Councilman/Trustees; Town, Village and City Planning Board and Zoning Board of Appeals members, Equine Committee, Ag Board, CCIDA Board, BDC Board, and Arts Council Board.

**Terms Expiring** – Chairman Couture reported that four members terms expire on July 31, 2009 – Charles Couture, Paul Mager, Ann Padlo, and David McCoy. All have indicated that they will serve another 3-year term. A memo stating such will be sent to the Chairman of the Legislature for reappointment of these members.

**New Director** – Paul Bishop reported that John J. Sayegh has been hired by the County to fill the position of Director of Economic Development, Planning and Tourism as of July 1<sup>st</sup>. He had been the Director nine years ago, and has been Director of the Greater Olean Chamber of Commerce.

**Mileage Vouchers** – Semi annual mileage vouchers were distributed for signature.

### **Department Reports**

**Town of Dayton/Village of South Dayton Comprehensive Plan** – Paul Bishop reported that the joint Comprehensive Plan for the Town of Dayton and Village of South Dayton has been adopted by both municipalities and is now in effect.

**2009 NYS Open Space Conservation Plan** – Paul Bishop reported that NYSDEC updates this Plan every three years. James Ellis is the County representative on the Regional Advisory Committee. Some of the highlights of the Plan are: 1) Allegheny River Watershed – additional public access is desired throughout this watershed; 2) Cattaraugus Creek and Tributaries – the spring and fall migrations of steelhead (rainbow) trout attracts thousands of anglers to the creek each year and increased public access has become a high priority; 3) Zoar Valley Multiple Use Area is situated on portions of both the main branch and South branch of Cattaraugus Creek and additional protection of this area through land acquisitions is desirable; 4) Expansion of Rt. 219 Expressway into Cattaraugus County is expected to place additional development pressure on farmland and forest resources on portions of this watershed; 5) Exceptional Forest Communities – this acquisition projects seeks to preserve the region's remaining forest remnants that exhibit old growth characteristics, which may be found at Allegany State Park, and Zoar Valley; 6) Trails and Trailways – Protect existing linear corridors and provide for acquisition or easement of existing trails and trailways or additional undeveloped linkage to connect existing trails. Examples would be unused or abandoned railroad corridors, and existing trails upgraded by not for profit groups that do not meet the criteria of long distance corridors. An example would be the Senator Pat McGee Trail in Cattaraugus County. 7) The Regional Advisory Committee recommends continued use and increased funding for the current NYSDAM PDR program. Additionally, DEC and OPRHP should investigate opportunities to include farmland protection as a goal when considering open space conservation. This would act to supplement the NYSDAM program, thus including the other natural values often found on farmland, such as scenic quality, historical and cultural significance and habitat protection.

**Training for Planning Board Members** – Paul Bishop noted that we have not had any training sessions this year. He listed four possible training options, which the Board was receptive to: 1) Know the Land You Build On by Brian Davis of Soil and Water; 2) Regional Transportation Plan by STW; 3) Marcellus Shale Presentation; and 4) Presentation on Planning and Zoning Issues by Robert Miller of Nussbaumer & Clarke.

The Board requested Paul to set up one of the above topics for a training session for one hour before the July 30<sup>th</sup> regular meeting.

**Meeting Locations** – It was discussed that perhaps some of the County Planning Board meetings could be held in various municipalities on occasion to discuss with them any planning and/or zoning issues/questions at the local level

### **STW Report**

Robert Keis reported on the following:

**ARC Presentations** – The STW Board had ARC Grant applications presentations at their meeting today.

**2010 Census** – STW has submitted a grant application for \$3,000 to produce handouts that will encourage participation in the Census.

**Route 219 and Continental One** – Discussion concerning Route 219 and Continental One and the need for discussion with the Seneca Nation for resolution of their concerns.

**Broadband** – Work continues on getting a Broadband loop from Jamestown to Whitesville and then laterals into other areas.

### **Members Forum**

Chairman Couture reported that the **Emerald Ash Borer** is now in Cattaraugus County. The first sighting is in Randolph. This is very serious and comparable to the Dutch Elm Disease that wiped out the Elm trees. This one will have a serious effect on Ash trees.

Chairman Couture also reported that NYSDOT has created a new **Scoby Hill Road** that will give access to Cattaraugus Creek. This was necessary because of the landslide on the current Scoby Hill Road that occurred last year during construction of the new 4-lane Route 219.

Paul Mager reported that the **Bentley Car Club** toured his alpaca farm and other areas of Cattaraugus County and Chautauqua County. They were very impressed with Cattaraugus County.

Florence Fuller reported that she is a member of the Seneca Nation Museum Board and at their last meeting they approved the filming of the Museum by **RFDTV** on September 24<sup>th</sup>.

James Isaacson reported that the Equine Advisory Committee has been working for several years now to get **RFDTV** to come to Cattaraugus County to highlight our Equestrian Trails. Tom Seay from Best of America by Horseback will be attending the NYS Horse Council Annual Meeting on September 26<sup>th</sup> hosted by the Cattaraugus/Chautauqua Chapter of the NYS Horse Council. He will be filming two days in Cattaraugus County and two days in Chautauqua County, which will result in a 30 minute show for broadcast on RFDTV.



Tina Abrams stated that as far as **Route 219** goes, NYSDOT has not contacted the Nation nor has the Nation contacted NYSDOT. The Nation will not discuss Route 219 issues until the issues that still remain from I-86 have been resolved.

Tina also stated that the **licensing for the Kinzua Dam** comes up in 2015. The Nation has put together a Committee to address the re-licensing issue. She believes that the County should also get involved.

## **CORRESPONDENCE**

The following correspondence was received and reviewed:

**Town of Ellicottville Planning Board** – Special Use Permit and Site Plan Review for expansion of existing gravel mine at Canada Hill Road and Route 240 – approved with 11 conditions on May 18, 2009. The Town Planning Board determined that the proposed reclamation plan was consistent with the Town's Comprehensive Plan.

**Town of Ellicottville Zoning Board of Appeals** – Area Variance to allow an addition to the rear of an existing home to come to within 42 feet of the front property line and to within 69 feet of the side property line, where Section 3-1D of the Zoning Ordinance requests a minimum of a 100 foot setback from all property lines at 6269 NYS Route 242 – granted with no conditions on June 4, 2009.

**Town of Dayton** – Comprehensive Master Plan 2009 (Town of Dayton & Village of South Dayton) – adopted June 9, 2009.

**Village of South Dayton** – Comprehensive Master Plan 2009 (Town of Dayton & Village of South Dayton) – adopted June 17, 2009.

**Town of Ellicottville** – Special Use Permit and Site Plan Review to allow an existing car wash building to be converted into storage units on US Route 219 – approved on June 22, 2009 with no conditions.

## **Next Meetings –**

July 22, 2009 Annual Meeting at Nic – L – Inn.

July 30, 2009 starting at 6 pm for an hour of training. Regular meeting starting at 7 pm – Large Committee Room, County Center, Little Valley.

## **ADJOURNMENT**

*David Rivet moved with a second from Paul Mager to adjourn the meeting at 8:35 pm. Carried.*