

MINUTES OF THE REGULAR MEETING
APRIL 5, 2004

The Regular Meeting was called to order by Chairman Joseph Yagey at 4:30 P.M. at which time the Pledge of Allegiance was recited. Board Members present were Gerald Green, Hans Arnold, Bob Imobersteg, Jerome Donovan and Bob Wood. Board Member absent: Ronald Morelle. Also in attendance were Town Supervisor Ralph Humphreys; Town Planner Kurt L. Schwenzfeier, AICP; Codes Enforcement Officer Jerry Back; Senior Engineer John Meagher; Police Chief Raymond Philo; Mr. Leo McCoy, representing New York Mills Planning Board; and Secretary Dory Shaw.

At this time, Chairman Yagey requested a moment of silence for Planning Board Member Sam Marchio who died on March 1, 2004.

Chairman Yagey welcomed new Board Members Gerald Green and Hans Arnold.

Minutes of the December 22, 2003 meeting were distributed and motion was made by Board Member Jerome Donovan to approve these minutes as written; seconded by Board Member Bob Imobersteg. All in favor.

Chairman Yagey mentioned that the Charles T. Sitrin Health Care Center application was removed from the at their request to reappear at another time.

Mr. Larry Adler, **The Orchard, Middle Settlement Road/Clinton Street**, New Hartford. Amendment to Final Approval for the relocation of a building and change in parking/circulation. Tax Map #316.020-1-11.1; Lot Size: approximately 29 acres; Zoning: Planned Development Mixed Use. Mr. Larry Adler, and Mr. Donald D. Ehre, P.E., appeared before the Board.

Chairman Yagey gave a brief history of this project for the benefit of the new members. This project was approved previously but Mr. Adler is requesting a modification to the approved plan. Oneida County 239 review was received with approval but they addressed runoff, transit service and a plan for snow removal (this letter has been made a part of the file). Town Planner Schwenzfeier said the 5,000 sf building will now be

located to the interior of the parking lot. Mr. Adler presented the new plan before the Board. The building is going to be on the southeast corner of The Orchard site. Also, a 6,300 sf building has been moved to the interior parking lot and Town Planner Schwenzfeier referred to the readjustment of parking. Town Planner Schwenzfeier said that with the revision of the 5,000 sf building for an actual tenant, sf has been readjusted for an additional 7,500 sf building located at the intersection of the two (2) entrance drives. There is no additional gross sf increase because the theater is well under what was expected. The center is no bigger than what was originally approved.

Mr. Adler addressed the Board and explained the changes that may occur when an actual tenant leases. He also referred to what businesses would be coming to this project in addition to the theater – all in Phase I, all general retail; Gander Mountain is planned for Phase II. In talking with Town Staff, it was decided to relocate a building to provide better pedestrian amenities. He said that the tenants want the façade in the front to create a better appearance. Mr. Adler said they increased the green space that connects the Outback Restaurant with the theater – pedestrian lighting will be 12' in height. He feels there is no significant change in Phase I. Mr. Adler also displayed the footprint of a proposed project in Phase II.

Chairman Yagey stated that each building is a part of the GEIS and the developer is paying by building. He also referred to parking – there is adequate parking and in Phase I they picked up another six (6) parking spaces.

Board Member Arnold asked if this parking configuration was driven by the requirements of the Zoning Law in terms of numbers or by the developer's design? Town Planner Schwenzfeier said it is driven farther than the Town's Zoning Law – it is above the minimum – they are over the minimum by 160 spaces (the theater alone requires 800 parking spaces). With each revision, we made sure there was no reduction in parking. Board Member Arnold would like to see more green space with developments in New Hartford. He would like to see the number of parking spaces come closer to the minimum and allow for more green space as it makes the project more aesthetically pleasing.

Chairman Yagey stated that green space has been a big part of discussions with projects and they try to work with developers for as much green space as possible. With this project, more parking is required because of the nature of the businesses. Chairman Yagey stated that this Board granted 31% rather than the 34% for green space as part of the parking issue.

Signage was addressed and it doesn't meet the Code. However, it is the same as other shopping centers in the area, especially Consumer Square. Chairman Yagey said we

have two (2) options, we can approve it because this is a Planned Development zone or send it to the Zoning Board of Appeals. One (1) sign will be located along Clinton Street and one (1) on Judd Road. Concern was raised about site distance, however, Staff said there is no distance site problems. Codes Enforcement Officer Back said the proposed sign is similar to what is at the TOPS Plaza on Kellogg Road. Mr. Adler said this is a 30-acre project and they need to accommodate the tenants.

It was the consensus of the Planning Board not to send the sign issue to the Zoning Board of Appeals. Board Member Arnold felt this is an attractive sign and felt it is warranted.

At this time, motion was made by Board Member Jerome Donovan to approve the Amendment to Final for the building relocations and the signs as stated on the revised plans dated April 5, 2004; seconded by Board Member Bob Wood. Vote taken:

Chairman Joseph Yagey – yes	Board Member Jerome Donovan - yes
Board Member Bob Wood – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Imobersteg – yes

Motion was **approved** by a vote of 6 – 0.

Price Chopper Supermarket, Commercial Drive, New Hartford. Preliminary/Final Site Plan Review/Approval of a proposed supermarket in the former P & C building, and a 17,000 sf building addition. Tax Map #328.008-1-10; Lot Size: approximately 21 acres; Zoning: Retail Business 1. Mr. Mark Sharp, Golub Corporation and Mr. James Palumbo of Klepper, Hahn & Hyatt/Structural Engineers and Landscape Architects, appeared before the Board.

Town Planner Schwenzfeier stated that Price Chopper is moving from the K-Mart Plaza into the vacant P & C building and proposing a 17,000 sf addition to the east side of that existing building over a parking lot area. The parking counts are still within requirements, and there is no additional runoff. An addition was proposed by P & C years ago but they never followed through with it. This application is before us because of the size – it is over 2,500 sf. The only concern Staff has is that before a Certificate of Occupancy is issued, that NYSDOT be informed so that they can synchronize the light at this site.

Board Member Imobersteg referred to backflow that was addressed in the County 239 review – this will be handled through the Water Board and Town.

Chairman Yagey said we need to address three issues: 1) Declare the Planning Board as Lead Agency and declare a Negative Declaration; 2) Grant Preliminary Approval; and 3) if no objections, grant Final Approval. County Planning 239 was received with no recommendation other than the backflow issue and additional vegetative cover along the eastern and southern sides of the site.

Motion was made by Board Member Bob Imobersteg that the Planning Board be Lead Agency and declare a Negative Declaration on this project; seconded by Board Member Jerome Donovan. Vote taken:

Chairman Joseph Yagey – yes	Board Member Bob Imobersteg – yes
Board Member Jerome Donovan – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes

Motion was passed by a vote of 6 – 0.

Discussion ensued regarding the vegetative screening, plantings and shrubs. Board Member Arnold asked Town Planner Schwenzfeier if the existing green space was in compliance with Code at this time – Mr. Schwenzfeier said yes. He also stated that he would have to identify where the actual flows are for the retention basin so shrubs, etc. don't interfere with it. Board Member Imobersteg recommended that the Town Planner come up with a proposed sketch for plantings to determine what is needed in the front and side, with particular emphasis on the front.

At this time, Mr. Palumbo appeared before the Board representing Price Chopper. Board Member Green asked him if he had any planting proposals for this project? Mr. Palumbo said discussion took place on this earlier and he feels the owner would be receptive to a planting plan, i.e., Bradford Pears and flowering trees, but his concern is snow removal, as he doesn't want to plow the frontage part of the parcel. He also displayed some pictures of the site and what vegetation exists there now. Mr. Palumbo feels trees up the hill from the road would be better and there would be no site problem. As far as drainage, there would be no conflict. To do the whole site would be quite expensive, but he is receptive to the front part. Board Member Arnold feels this project is an asset for the Town, however, there is an opportunity to create additional green space to beautify this area. He is receptive to the Town Planner working with the developer on this green space issue. He also feels this developer is aware of what we would like to see and is receptive to our concerns.

Chairman Yagey said this is a good project and he doesn't want to hold it up. Mr. Mark Sharp, Golub Corporation, recommended placing a dollar amount for a planting plan, i.e., \$5,000 - \$7,000. Town Planner Schwenzfeier recommended not going more than 10% of

the total cost of the actual site work, which is \$70,000. Mr. Sharp said that they need to start construction on this project immediately as they are on a tight time frame. Board Member Donovan addressed the SEQR procedure, and understands the developer's urgency to get this project built. Board Member Green recommended a Special Meeting.

Motion was made by Board Member Jerome Donovan to grant Preliminary Approval for this project contingent upon the traffic light being synchronized and that a planting plan be put in place at a cost not to exceed 10% of the project, and work with the Town Planner in developing this plan; seconded by Board Member Bob Imobersteg. Vote taken:

Chairman Joseph Yagey – yes	Board Member Jerome Donovan – yes
Board Member Bob Imobersteg – yes	Board Member Bob Wood – yes
Board Member Gerald Green – no	Board Member Hans Arnold – yes

Motion passed by a vote of 5 – 1.

Board Member Wood asked Board Member Green if he would explain why he voted no – Board Member Green said that he is not sure of any limit of 10% for plantings. If we do not see what it is we are actually voting on, putting this into the hands of the Town Planner, he feels, is unfair. Board Member Arnold is concerned about granting Final Approval at this time until the planting plan is in, and he is willing to meet again to review it.

It was the consensus of the Board Members not to proceed to Final Approval this evening. Chairman Yagey addressed the applicant stating that a Special Meeting could be held, but for them to submit a planting plan and meet with the Town Planner to review it.

Mr. Palumbo stated to the Board that he would be showing the location of the shopping carts into the new plan.

Longworth Acres, Tibbitts Road, New Hartford. Conceptual Subdivision Review of a proposed fourteen (14) lot Major Subdivision on Tibbitts Road & Snowden Hill Road owned by the Owens family. Tax Map #339.000-2-21.1; total lot size: 84 acres; Zoning: Residential/Agricultural 2. Mrs. Barbara Couture, Mrs. Dolores Owens, Donald E. Ehre, P.E., and Mr. William Virkler appeared before the Board.

Chairman Yagey said this Conceptual Review is to help the developer make whatever changes are necessary to send out to SEQR. Town Planner Schwenzfeier referred to the map. Staff has a concern with Lots 1 and 2. Each lot meets the required minimum for the Zoning Law. They did not allow driveways for each one of the lots on Tibbitts Road. The one (1) driveway will be on Tibbitts Road (at the top five (5) lots) and go through the one (1) driveway – it will be a private road and will run to Lots 1 – 5. These lots will be on well – the public water system is not extendable. The lots on Snowden Hill Road all have their own driveways. Lots 6 – 9 will be addressed under SEQR by Oneida County DPW. The Board Members referred to the development across the street, which does have water because they put in a pumping station. They will be public sewer. Board Member Arnold asked if there was some kind of plan to improve pressures and service to this area – response: not at this time.

Mr. Virkler said they are aware of what the County wants. He also said Lots 1 – 5 were planned with a common driveway because the crest of the hill is dangerous. Lots 6 – 9 have double the line of site view. The houses are proposed to set 100' back from the lot line. Because there is no water, the back of the lots will remain forever wild as there are a lot of woods there.

Board Member Donovan thought this is a good plan especially because of runoff with the forever wild areas. Town Planner Schwenzfeier referred to the requirements in this zone regarding frontage and lot sizes.

Board Member Green asked about criteria for approval of this subdivision. Chairman Yagey explained the SEQR and Subdivision Review process. Board Member Arnold would like to see a cul-de-sac with lots fanned out from it and a Town highway. To him a compromise would be to come in with a Town road and do some frontage lots. Mr. Virkler said they tried several different ways but this concept is the most cost effective. They have been waiting for water for many years. The pumping station referred to earlier just increased pressure for six (6) houses at Jubilee Estates and not the whole area. Mr. Virkler feels they can't get a lot of money for a lot without water – the plus is the land in the rear.

Chairman Yagey referred to the water tank issue. It was stated to him that the Water Board wants a tank on the top of Tibbitts Road as they want elevation.

Board Member Donovan suggested using the surplus land in the back for trails, etc. and deeding it over to the Town as forever wild. Mr. Virkler said there are questions about liability.

Mrs. Couture addressed the Board stating that they have discussed a possible water tank with the Water Board many times to no advantage. Mr. Virkler said this is a subdivision that won't create more sprawl and there wouldn't be a lot for the Town to take care of.

Chairman Yagey asked if there were any further comments. At this time, motion was made by Board Member Jerome Donovan that the Planning Board be Lead Agency for this project; seconded by Board Member Bob Wood. Vote taken:

Chairman Joseph Yagey – yes	Board Member Jerome Donovan – yes
Board Member Bob Wood – yes	Board Member Bob Imobersteg – yes
Board Member Hans Arnold – yes	Board Member Gerald Green – yes

Motion passed by a vote of 6 – 0.

Benderson Development Corporation, corner of Henderson Street and Commercial Drive, New Hartford. Conceptual Site Plan Review of a proposed pharmacy in the Town of New Hartford and Village of New York Mills. Tax Map #'s (New Hartford) 317.013-3-14; 317.013-3-15; 317.014-3-18.4; (New York Mills) 317.013-2-3; 317.013-2-2; Total lot size: 3.91 acres; Zoning: Retail Business 1. Mr. Kim Fiedler and Mr. Jim Rumsey appeared before the Board representing Benderson Corporation.

Chairman Yagey introduced Mr. Leo McCoy of the New York Mills Planning Board who was present to listen to this application as a small part of this project is in the Village of New York Mills. New York Mills has agreed that New Hartford be Lead Agency for this project, and a Public Hearing will be held. The original plan had proposed several buildings, however, this is a different plan to show one (1) building only for a pharmacy consisting of 14,464 sf on approximately 1.75 acres. The pharmacy will have two (2) drive-thru windows and two (2) lanes.

Chairman Yagey referred to the distance of the previous buildings to the adjacent residential lots and we had asked them to move the buildings forward. However, there is a 40' strip that Mr. Inkawich owns and they could not do this without purchasing the additional property (Benderson has not purchased the property at this time). Benderson has now come back and asked for approval of the pharmacy only with no additional buildings. Chairman Yagey asked the developer if they planned on additional buildings at this site – Mr. Fiedler said not at this time. Chairman Yagey referred to the proposed driveway on Commercial Drive as he has a concern about the location, as it is adjacent to the Inkawich property. An entrance would also be placed along Henderson Street.

Board Member Arnold has a concern about traffic coming into the southwest entrance on Commercial Drive as cars will be stacked up – he has serious concerns about traffic patterns. He feels they may have to move the entranceway on Commercial Drive. We need to see what the State says regarding this through the SEQR process. Also, he would like to see plantings/green space before any approvals are granted.

Chairman Yagey addressed the narrowness of the lot in relation to plantings and existing homes to the rear on Royal Brook Lane. We also need to be conscious about lighting. Chairman Yagey referred to some pictures that were taken showing the back of the property with the existing homes.

Mr. Fiedler referred to the pharmacy, which is owned by Eckerd and presented a sketch for the Board to review. He feels the plan submitted is an attractive one – they have tried to work with this building in relation to the lot, he said if they moved it up, it would not be feasible. They have been discussing acquisition of the strip owned by Mr. Inkawhich and they don't want to submit any future plan at this point because they don't own the land. If Mr. Inkawhich comes to some reasonable terms, they hope to do a Phase II and Mr. Fiedler is aware they can't do anything further without acquisition of that land. Mr. Fiedler said this plan meets all of the Code requirements and they feel they produced a traffic study that supports the curb cuts and driveways. In terms of screening, they are placing fencing and landscaping to adequately screen, especially in the rear where four (4) parking spaces are (the plantings near the fence is on the Eckerd side with the fence on the property line). They are over the minimum parking requirements by nine (9) spaces. It was suggested that the developer screen over the four (4) parking spaces in the rear and if they need to change it at any time, to come back before the Board. Mr. Fiedler said there is green space and plants in the front.

Codes Enforcement Officer Back suggested that the developer submit photos of the land in relation to the neighbors' back yards with proposed landscaping for us to review, i.e., like they did for Consumer Square.

Board Member Arnold addressed the curb cut along Commercial Drive again and plantings. Discussion ensued regarding traffic circulation with another project in the Town owned by the same developer. Board Member Green also has concerns regarding traffic and would like to see a planting plan. Mr. Fiedler said he is unaware what happened with the other project. Town Planner Schwenzfeier said that project had to go through Oneida County Planning review and the existing driveways were a culmination of improvements by NYSDOT and others.

At this time, motion was made by Board Member Bob Imobersteg that this Board be Lead Agency for this project; seconded by Board Member Jerome Donovan. Vote taken:

Chairman Joseph Yagey – yes	Board Member Bob Imobersteg – yes
Board Member Jerome Donovan – yes	Board Member Gerald Green – no
Board Member Hans Arnold – no	Board Member Bob Wood – yes

Motion passed by a vote of 4 – 2.

Board Members Green and Arnold expressed concerns regarding the plans submitted and what could be accomplished at this site.

Mr. Leo McCoy addressed the Board regarding water runoff, grading, lighting, etc. Chairman Yagey explained that these plans will be submitted before the Public Hearing and before we send it out for SEQR. Mr. McCoy is concerned about no turning lane on Henderson Street and he understands that traffic will be addressed by NYSDOT.

Mr. Ramsey said he would submit the other plans based on comments by the Planning Board members.

Big Apple Music, Commercial Drive, New Hartford. Conceptual/Preliminary Site Plan Review of proposed parking and exterior improvements on Commercial Drive. Tax Map #328.016-1-31; Zoning: Retail Business 1. Mr. Peter Bolos and Mr. Al Forte, P.E., appeared before the Board.

Mr. Forte explained that they plan to renovate an existing 15,221 sf building and improve the parking (no additions to the existing building but renovations to make it more aesthetically pleasing). Mr. Bolos leases the property from Mr. Philip Husted and Mr. Bolos will be in charge of the improvements (authorization letter from Mr. Husted has been made a part of the file). Two (2) existing buildings located to the south of the property will be demolished with a new entrance into the northern part and twenty-three (23) parking spaces will be constructed with its own driveway. A railing will be installed at the top of this area with proper lighting.

Town Planner Schwenzfeier said parking meets the requirement, and they plan on cleaning up the front of the stores with canopies, etc.

Board Member Arnold referred to proposed parking in the rear – Mr. Forte said nothing is proposed at this time, but perhaps in the distant future.

There being no further discussion, motion was made by Board Member Jerome Donovan that the Planning Board be Lead Agency for this project; seconded by Board Member Bob Imobersteg. Vote taken:

Chairman Joseph Yagey – yes	Board Member Jerome Donovan – yes
Board Member Bob Imobersteg – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes

Motion passed by a vote of 6 – 0.

Mr. Forte was advised that the demolition of the buildings could take place immediately if he so desired.

Piggy Pat's BBQ, Edgebrook Place, New Hartford. Conceptual/Preliminary Site Plan Review of a proposed addition to the front of the existing restaurant. Tax Map #339.016-1-6; Zoning: Retail Business 2. Mr. Al Forte, P.E., and Mr. Patrick McCann appeared before the Board.

Chairman Yagey explained that the existing restaurant did not come before the Planning Board as it was an allowed use. The reason why we are reviewing the proposed 1,470 sf addition is because it is greater than 500 sf.

Mr. Forte said there is an existing porch on the front of the restaurant and Mr. McCann would like to put his addition onto the front over existing macadam.

Board Member Arnold asked if whether the owner or Town has any plan to make the movement of traffic safer into this project? Chairman Yagey said we never approved this restaurant and did not get involved in the original plan.

At this time, motion was made by Board Member Jerome Donovan that the Planning Board be Lead Agency on this project; seconded by Board Member Bob Imobersteg. Vote taken:

Chairman Joseph Yagey – yes	Board Member Jerome Donovan – yes
Board Member Bob Imobersteg – yes	Board Member Bob Wood – yes
Board Member Gerald Green – no	Board Member Hans Arnold – yes

Motion was approved by a vote of 6 – 0.

Benderson Development Corporation, Commercial Drive, New Hartford.

Amendment to Final Approval on the location of the proposed bank at Consumer Square near the entrance to Barnes & Noble. Tax Map #317.013-3-33.61; Zoning: Retail Business 1.

Chairman Yagey explained that this Board reviewed the proposed bank last year and we haven't heard from them again until this time. They are proposing a bank at the same location but they changed the islands and driveway pattern per Staff. This is the plan for the revised change to the bank.

Motion was made by Board Member Green to deny this as presented; seconded by Board Member Bob Imobersteg. There was no vote and Board Member Green withdrew his motion.

Town Planner Schwenzfeier said we are working with NYSDOT and Benderson to work with the realignment at the entrance. The change made is that the bank has gotten wider and in doing that the parking was moved from in front of the bank to across the bank so no one can cut across.

The Board reviewed the traffic pattern in and out of the drive-thru. Board Member Arnold suggested some change in traffic pattern, especially by the main entrance and away from the main road. Discussion ensued regarding the purpose of the relocation of the bank.

Board Member Green referred to Section 118-26 A in the Zoning Law, Site Plan Review addressing new construction or rehabilitation. It was discussed whether to contact the Town Attorney, if necessary, regarding previous approvals/changes.

Board Member Arnold asked whether a traffic expert could reevaluate this pattern.

Chairman Yagey stated that Benderson is an excellent developer and has done everything we have ever asked them to do. He feels that an option for the developer is to refer back to the original plan/approval.

Chairman Yagey said that at this point we will take no action on this in that we need to meet with the developer because we have got some concerns about traffic flow, especially for this project, and concerns were expressed about the sale of the Consumer Square property. The Planning Board and Staff would be willing to meet with the developer on this further.

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Town Planner Schwenzfeier will advise Benderson as to the Board's concerns. He also mentioned to the new Board Members that they could stop in to his office to review the plans previously submitted at any time.

For information purposes:

Chairman Yagey mentioned that the sign for **Precision Car Wash** on Oneida Street had been reviewed by Staff and it is within Codes.

Also, the proposed sign for **Carcuzzi Car Wash** on Chapman Road does not conform. Their option is to change it; but if they continue with the sign they want, it would require a variance.

There being no further business, the meeting adjourned at 8:30 P.M.

Respectfully submitted,

Dolores Shaw
Secretary