

**MINUTES OF THE REGULAR MEETING**  
**APRIL 15, 2004**

The Special 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, Ronald Morelle, Jerome Donovan and Bob Wood. Board Member absent: Bob Imobersteg. Also in attendance were Town Supervisor Ralph Humphreys; Town Planner Kurt L. Schwenzfeier, AICP; Police Chief Raymond Philo; and Secretary Dory Shaw.

Minutes of the April 5, 2004 Planning Board meeting were distributed to all members for review. Motion was made by Board Member Hans Arnold to approve these minutes; seconded by Board Member Jerome Donovan. All in favor.

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**Price Chopper Supermarket, Commercial Drive, New Hartford.** Final Review/Approval of a proposed supermarket in the former P & C building, and a 17,000 square foot building addition. Tax Map #328.008-1-10; Lot Size: approximately 21 acres; Zoning: Retail Business 1. Mr. Tim Hogan, Engineer, and Mr. James Palumbo, Landscape Architect, appeared before the Board.

Chairman Yagey said that a planting plan was submitted, Staff reviewed it and was satisfied with what was presented. It seems to have accomplished everything we asked for. Mr. Palumbo presented some photos of the existing site. He stated the overall site has landscaping. Where the addition is being placed, there is room for additional landscaping, i.e., color for fall and spring still keeping in mind maintenance of the site. There are several light poles that they tried to camouflage. Basically, they will place trees and shrubs that withstand snow.

Discussion ensued regarding parking. Town Planner Schwenzfeier said he looked at the plan and compared it to the Town Code, and they more than meet the requirements for parking. He also feels the shrubs are more than adequate for a development this size.

Board Member Arnold referred to the photos presented and asked about the distance between the existing trees in the front of the project, especially near their sign. Mr. Palumbo is concerned about placing another tree by the sign as they don't want it to block it and plants are located around the sign. Mr. Palumbo said there is about 50'-60'

from the sign to the first tree. Board Member Arnold feels the developer could bring those street trees closer to the sign with another maple. Mr. Palumbo said he felt the developer would be willing to do this and they would place another tree at this specific location.

At this time, motion was made by Board Member Hans Arnold to grant Final Approval of the plan for the 17,000 square foot addition for Price Chopper with the condition that they place an additional maple tree along the Route 5A Commercial Drive frontage in addition to the plantings being shown on this plan; that the traffic light be synchronized; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Bob Wood. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Bob wood – yes	Board Member Jerome Donovan – yes
Board Member Ronald Morelle – yes	Board Member Gerald Green – yes

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

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**Benderson Development Corporation, Commercial Drive, New Hartford.**

Amendment to Final Approval on the location of a proposed bank at Consumer Square near the entrance to Barnes & Noble. Tax Map #317.013-3-23.61; Zoning: Retail Business 1. Mr. Tom Hattala appeared before the Board representing Benderson Development.

Chairman Yagey addressed the Board referring to the original approval for this bank. After it was approved, Staff had asked for a modification and the developer agreed. Since then, and since last Monday, a meeting was held with Benderson, NYSDOT, the contractor, Board Member Hans Arnold and Chairman Joseph Yagey. A lengthy discussion was held regarding Consumer Square, traffic, and the whole project.

Chairman Yagey stated that Benderson has been one of the better developers in the Town, and he referred to some of the items Benderson did to make their projects work more efficiently. As a result of that meeting, Benderson has agreed that there is a traffic problem, nothing to do with the bank because they didn't create it, but they agreed to go back and look at this. The NYSDOT has done many studies for this area to identify problems. Benderson said if there is anything more they can do, they are willing to look into it. Board Member Arnold had brought up an additional study, and they agreed to cooperate. These are all items to make the traffic flow better. Chairman Yagey

is looking for a motion to approve the modified plan and then also talk about some additional improvements regarding traffic and additional studies.

Board Member Green stated for the record that although he wasn't party to that meeting, the concern last time was that while there was prior approval, there still was some uncertainty in light of the traffic flow problems and whether that approval was going to add to that traffic flow problem. Chairman Yagey said they spent a lot of time in discussing that approval and we felt as a Board that the plan of putting the bank there wasn't going to do anything to the existing traffic problem – it wouldn't make it worse, and it was approved based on that fact.

Board Member Donovan said the discussion at the last meeting was that there were some outstanding traffic issues that we felt had to be resolved. Chairman Yagey said yes, and NYSDOT was at the meeting and we talked about synchronized lighting, a punch list submitted by Mr. Al Swierczek, P.E., consultant for the Town, and it was totally acceptable by Benderson Corporation. Chairman Yagey also referred to a \$100,000 bond we have that the Town is now holding for that punch list. Chairman Yagey said those items have been taken care of. The original approval was contingent upon the light and the light is up and the State is happy with it.

Mr. Tom Hattala said the bank was taken into account for the additional traffic that the bank would generate. Board Member Wood said he would rather see a different plan for the bank at this location.

Board Member Green to Board Member Arnold: you understood the issues that we discussed previously with regard to this setup, the potential for generating an additional problem to something we perceive as an existing problem. In your opinion, were you satisfied – Board Member Arnold said if he were a designer or developer for the bank, he would not employ this plan, but the overall Benderson plan included a bank in another location so the traffic circulation was taken into account to the extent those cars are coming in and making their way to the north end of the development. This Board has an approval for the bank in that location and it was altered slightly at the direction of Staff and this Board, and they are asking for a confirmation from the Board that this Board requested. Benderson and NYSDOT agreed to submit to the Town all the data of traffic movements in and out of Consumer Square and counts, drainage, etc. Board Member Arnold thinks another look should be taken at this even if the Town has to pay for it. Board Member Arnold would like the Board to look at the entrance road and maybe we don't need a consultant to do that, but perhaps make a recommendation to the Town Board for some improvement and Benderson and NYSDOT said that would participate. Board Member Arnold still feels the intersection is too close and he feels everything going left comes to a stop and there is only stacking room for two (2) cars.

Chairman Yagey would like to separate the approval of the bank from the studies on changing traffic patterns. This project has to be moved on with a vote and then we can deal with the issues. Chairman Yagey doesn't feel it is right to hold up a particular project because we have another problem that is unrelated, but this is his opinion.

Board Member Green said he wanted to be brought up to date on what took place at that meeting as was there any suggestion made to another viable location for the bank. Also, he would like the benefit of that meeting to make an informed decision. Board Member Green asked Board Member Donovan, have all your concerns causing you to table this been addressed – Board Member Donovan said yes. Chairman Yagey stated that the bank wants this plan – we can accept it or not.

The Board discussed in detail the location and traffic pattern of the proposed bank, especially the drive-thru. Mr. Hattala explained the reason for a light and he also referred to stacking as he and Benderson are aware of the Board's concerns and they will address these issues.

Board Member Donovan referred to the time frame for the issuance of a Building Permit for this project – Chairman Yagey said they are still within the time frame.

Motion was made by Board Member Jerome Donovan to **approve the Amendment to Final** as presented for the proposed bank and that a Building Permit be obtained within one (1) year of approval date; seconded by Chairman Joseph Yagey. Vote taken:

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

Motion **passed** by a vote of 4 – 2.

Board Member Arnold addressed the Board stating what he thought Benderson should be doing at this location and their responsibility to the community. Mr. Hattala is aware of this Board's concerns.

Chairman Yagey stated that based on past history and for the record, we have asked for an explanation of a nay vote. Board Member Green said that: 1) he was not a member of the Board when information was reviewed and Board approval was given; 2) he was not present when the Chairman held a special meeting with NYSDOT, the Town Attorney, Benderson representative and others and has not been made privy to that discussion or additional information; 3) that statements given by the Chairman at this meeting have not alleviated his concerns for the additional traffic flow problems the proposed bank plan

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will generate; and 4) that he is still not clear what action this Board is taking or what measures this Board is requiring Benderson to take, to address these concerns, especially since Benderson has a sale of the entire property pending. Board Member Green said he simply does not have sufficient information to make an informative decision.

Board Member Morelle chose not to elaborate on his vote.

Board Member Donovan referred to the time frame for this project relating to the issuance of a Building Permit – this project is within the time frame

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There being no further input, the meeting adjourned at 5:30 P.M.

Respectfully submitted,

Dolores Shaw  
Secretary

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