

**MINUTES OF THE REGULAR MEETING**  
**AUGUST 23, 2004**

The Regular Meeting was called to order by Chairman Joseph Yagey at 7:00 P.M. at which time the Pledge of Allegiance was recited. Board Members present were Gerald Green, Hans Arnold, Ronald Morelle, Jerome Donovan, Bob Wood and Bob Imobersteg. Also in attendance were Town Supervisor Ralph Humphreys; Town Planner Kurt L. Schwenzfeier, AICP; John Meagher, Senior Engineer; and Secretary Dory Shaw.

Minutes of the June 14, 2004 Planning Board meeting were distributed to all members for review. Motion was made by Board Member Jerome Donovan to approve these minutes as written; seconded by Board Member Bob Imobersteg. All in favor.

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Overview from the Department of Soil & Water Conservation District regarding the new storm water regulations and how these regulations affect the Town of New Hartford: Ms. Jo-Anne Faulkner of the Department of Soil & Water Conservation appeared before the Board and made a presentation regarding storm water and a storm water plan for the Town of New Hartford.

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Public Hearing: Preliminary/Final Site Plan Review/Approval for **Mr. Michael Johnson, properties at 8620 Seneca Turnpike, 6 and 8 Paulevan Place, New Hartford.** Proposal is to combine three properties into a single property, demolish the existing garage on Seneca Turnpike and remove the existing trailer at 8 Paulevan Place – the two remaining structures are proposed to be converted into office space. Tax Map #'s 328.016-3-28; 328.016-3-40; and 328.016-3-39. Zoning: Planned Highway Business. Legal Notice was published in the Observer Dispatch on August 13, 2004 and residents within 500' were notified. Mr. Michael Johnson and Mr. Donald E. Ehre, P.E., appeared before the Board.

Chairman Yagey stated to the Board that we needed to hear from the residents from this area. Town Planner Schwenzfeier stated that Mr. Johnson contacted the adjacent property owner, Mr. Riley, regarding whether or not a workable site plan could be developed and have a connecting driveway plan, especially over traffic as Mr.

Riley owns the bulk of land in this area. His work schedule did not permit him to coordinate a meeting, but by telephone he talked to Mr. Riley and Mr. Riley had no interest in Mr. Johnson's proposal. Mr. Johnson had stated that Mr. Riley is not willing to discuss any existing or future plans involving his properties. Town Planner Schwenzfeier stated that there could be complications Mr. Riley currently has a signed and Town Approved Pre-development Agreement for a Site Plan of the Seneca Turnpike Liquors project adjacent to the Johnson proposal.

Board Member Green noted for the record that it has been two (2) months and he feels no meeting or real attempt other than a phone call has been made to Mr. Riley. Chairman Yagey asked Board Member Green if he wanted the Town Planner to try again? Board Member Green doesn't feel comfortable to put any Planning Board Member or any applicant through this, as it seems to be a task to get things in order. One of the concerns last time was the option of considering this application with all other property owners and explore the possibility of heading off a problem in regard to ingress and egress onto the Johnson property. He stated that the Town Planner had put together a plan that appeared to be quite an intelligent one in this particular area. He further stated that a request was made in June that the Town Planner or someone on behalf of the Town contact these property owners to go through a concept that the Town Planner took the time to put together. It seems to Board Member Green that there were benefits to all property owners as presented. He does not feel a phone call just before this meeting and no report to this Board is what he wanted. He does not feel we are in a better position now than two (2) months ago. It seems to him that the common area of ingress and egress to this property makes a lot more sense - it would make the individual properties more valuable, and he addressed the need and concerns from Paulevan to the Mall.

Chairman Yagey referred to the drawing by Town Planner Schwenzfeier mentioned by Board Member Green. Town Planner Schwenzfeier said he had presented a drawing when this project first appeared at this Board in September of last year when this proposal and the Riley proposal were on the agenda together, and he displayed it for the Board to review again.

Board Member Donovan stated that Mr. Johnson did call Mr. Riley to discuss this project with no interest shown by Mr. Riley. Board Member Arnold does not want to rush this through and not consider the Board's obligation under the Zoning Law to coordinate the development of these properties. He referred to the sections of the law linking commercial lots, which makes this Board responsible to coordinate properties. He said development is occurring on the Riley property, and the Johnson property is being reviewed, especially respect to traffic that is right up against a viable residential area. He feels it is our responsibility to make it right.

Chairman Yagey stated that we cannot force Mr. Riley to meet if he doesn't want to do it. He would like to proceed with the Public Hearing and review it as presented. He would like to hear what Town Planner Schwenzfeier put together that in some way would be acceptable and relieve this situation, and also listen to what the public has to say. The purpose of this Public Hearing is to get all the details and concerns.

At this time, Town Planner Schwenzfeier referred to the application. The existing driveway would be extended from Seneca Turnpike through to Paulevan Place. Parking would be off of this driveway with ten (10) parking spaces. A concrete sidewalk is proposed connecting the parking spaces to the two (2) remaining buildings.

It was stated that there would be no ingress (no left turn) coming out of this project onto Seneca Turnpike – ingress and egress would be allowed on Paulevan Place. (Mr. Johnson stated that signs would be posted on the property facing Seneca Turnpike stating no left turn). Reference was made to a draft proposed by Town Planner Schwenzfeier for ingress and egress – a proposal for Mr. Riley and Mr. Johnson to coordinate access. Discussion ensued regarding ingress and egress points and how any future development in this area would be affected, i.e., some type of connecting driveway to Kilabrew's and an adjoining property on Clinton Road as Mr. Riley may want to develop this property in the future. Board Member Arnold suggested coming up with a specific plan to present to Mr. Riley.

Chairman Yagey asked if there was anyone present to address this application:

- Mr. Lee Merkel, 4 Marlboro Road. He rents the property at 8616 Seneca Turnpike and Mr. Riley is his brother-in-law. He asked how Mr. Johnson arrived at the number of parking spaces (the Town Planner explained the Code requirements for parking in this area). Mr. Merkel is aware that Mr. Riley does not want to meet regarding his property. His concern is with parking and he wanted to see a drawing. Mr. Johnson referred to the type of offices proposed, i.e., an accounting office and another office-type use. Mr. Merkel is not objecting to this application, and asked if offices were permitted uses – which they are. Mr. Johnson said he would totally rehab the outside and inside of his properties and plant trees, shrubs and grass.
- Mrs. Mary Ann Larribe, 7 Paulevan Place. She lives across from the trailer. She had a meeting with her Town Councilman and Police, as she is concerned about traffic on Paulevan Place and the safety of her daughter

and residents. She explained that the Police didn't think it was a good idea to have a one-way street there but could reduce the speed to 30 MPH – they will be meeting again. Chairman Yagey asked if she thought this project would affect traffic – Mrs. Larribe said yes because of the exist coming out to Paulevan Place. It was stated that the concept plan for this area presented by the Town Planner would eliminate the exit on Paulevan Place.

Board Member Arnold stated NYSDOT had recently done curb cuts in this area and asked if there is a limitation to ingress and egress on this site – it was stated yes – there would be no egress to Seneca Turnpike. He asked who put the limitation of no left turn – it was stated NYSDOT through SEQR. Board Member Arnold discussed allowing a right turn out onto Seneca Turnpike and nothing on Paulevan – the Board reviewed this option.

- Mr. James Johnson addressed the Board stating that he has lived in this area for twelve (12) years and he wants to be a good neighbor, he wants to be able to develop his property for what is allowed. He has attempted to work with Mr. Riley several times to no avail. He stated that in the future, if he is approved with this plan presented this evening, he would be more than willing to work with Mr. Riley in the event he chooses to develop his property (Mr. Riley's property). But at this point in time, Mr. Riley has no interest. Mr. Johnson went through the Zoning Board of Appeals for the variances he needed, and he contacted an engineering firm to address traffic. He feels that he has done everything he can, but appreciates the Board's input. Chairman Yagey asked Mr. Johnson if he wanted this Board to proceed reviewing the plan that is presented this evening – Mr. Johnson said yes as he feels his plan has merit. He feels it is the lowest impact plan he could present.
- Mrs. Hunsinger, 8610 Seneca Turnpike. She has no objection to this plan. She feels this area cannot be reviewed as residential any longer.

Mr. Ehre stated that Mr. Johnson is willing by agreement to show on the plan a cross easement on his property and should this Board, when the other property by Mr. Riley ever comes to this Board, make that easement happen to be able to close the entrance on Paulevan and connect to the Riley property. Board Member Arnold appreciates this option, but he doesn't know where along this property line to make an easement.

Chairman Yagey asked if there were any further comments from the public – there were none. At this time, motion was made by Board Member Bob Imobersteg to close the Public Hearing; seconded by Board Member Ronald Morelle. All in favor.

Discussion ensued between the Board Members regarding the plan presented, traffic on Seneca Turnpike, NYSDOT's SEQR response, modification to the plan, any future development in this immediate area, and whether this project should be tabled until a further attempt was made to Mr. Riley and further information from NYSDOT. Board Member Imobersteg referred to contacting NYSDOT regarding a right turn only onto Seneca Turnpike from this project.

Board Member Green stated that a suggestion was made to have the Town Planner to contact property owners and Mr. Riley to try to come up with some type of offer, an incentive – to explore the feasibility of proposing something beneficial to everyone. He also referred to two (2) properties in between Mr. Riley's and Mr. Johnson's properties who cannot exit onto Clinton Road and which only have about 60' of frontage. He feels problems could occur. Further discussion took place with regard to a more comprehensive plan.

Board Member Arnold referred to Sections 118-25; 118-26 and 118-62 of the Town Code in that he would like a legal opinion that this Board had met its obligation. Chairman Yagey explained that the Planning Board has the power to hire an attorney, but it needs to be coordinated with the Town Board.

At this time, motion was made by Board Member Jerome Donovan to close SEQR with a Negative Declaration; seconded by Board Member Bob Imobersteg. Vote taken:

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

Motion was passed by a vote of 7 – 0.

Town Planner Schwenzfeier said the applicant is willing to sign the Pre-development Agreement and Memorandum of Understanding as this project is in a DGEIS area.

Motion was made by Board Member Bob Imobersteg to grant Preliminary/Final Approval to this application as submitted with the provision that the developer would have one-way in off Seneca Turnpike and that at a future date an easement can be obtained to go out through the adjacent property and that at his expense he pays for the driveway and put in the road to connect to the easement; seconded by Board Member Ronald Morelle. Vote taken:

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

Motion was **passed** by a vote of 5 - 2.

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**St. Luke's Hospital, Champlin Avenue, New Hartford.** Preliminary/Final Site Plan Review/Approval for temporary parking at the right side of the main entrance. Tax Map #317.000-2-2.1; Zoning: Planned Development Institutional.

Chairman Yagey stated for the record that he is on the Board of Network Data Systems, which is a separate corporation of Mohawk Valley Network, and which St. Luke's is a member. He does not see it as a conflict and, therefore, he does not feel this is a conflict of interest.

Chairman Yagey stated that this is a temporary parking situation as St. Luke's is coordinating their services with Faxton, moving people from Faxton to St. Luke's. It was determined that no mitigation would be charged because it is a temporary parking lot but a Pre-development Agreement must still be signed (he referred to Appendix A in the Pre-development Agreement). Parking spots have been reduced to 87 from the originally proposed 100 spaces.

Board Member Donovan referred to water runoff – it was stated that NYSDEC reviewed this and have indicated that there isn't a problem. Water would be caught in the existing sewers and basins. Town Planner Schwenzfeier said the parking lot would be graveled, not paved.

Motion was made by Board Member Gerald Green to close SEQR with a Negative Declaration; seconded by Board Member Hans Arnold. Vote taken:

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

Motion was passed by a vote of 7 – 0.

Motion was made by Board Member Gerald Green to grant Preliminary Approval; seconded by Board Member Hans Arnold. Vote taken:

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

Motion was passed by a vote of 7 – 0.

Motion to grant Final Approval was made by Board Member Gerald Green; seconded by Board Member Hans Arnold. Vote taken:

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

Motion was **passed** by a vote of 7 – 0.

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**Mr. Antonio Cristiano**, conceptual Subdivision Review of a proposed **3-lot Major Subdivision on Lindale Avenue, New Hartford**. Tax Map #340.000-1-36.1; Lot Size: approximately 16.5 acres. Zoning: Residential/Agricultural 1. Mr. Al Forte, P.E., appeared before the Board representing Mr. Cristiano.

Mr. Forte explained to the Board that this is a Major Subdivision because of the road.

Board Member Arnold referred to the map and the two (2) 60' sections that looked like they were left for a road at one time. He is concerned about the future of this property coming out to Chapman Road.

Mr. Forte said Mr. Cristiano wants to have a three-lot subdivision for him, his son and daughter. The big issue is that to be in conformance, we needed lot frontage and that is the only reason why they are doing the plan this way. They have to build a road and extend a water line. Any further subdivision would have to come back before the Board and he can't see that happening.

Board Member Green asked Mr. Forte if Mr. Cristiano would object that this 60' not be used for ingress and egress in the future – Mr. Forte said he didn't know and he would ask Mr. Cristiano.

The Board reviewed the plan as presented. Motion was made by Board Member Bob Imobersteg that this Board be Lead Agency for this project; seconded by Board Member Ronald Morelle. Vote taken:

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

Motion was passed by a vote of 7 – 0.

It was stated this Major Subdivision would require a Public Hearing.

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**Longworth Acres, Tibbitts Road, New Hartford.** 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. Mr. William Virkler, Herbert Cully, Esq., Mr. Donald D. Ehre, P.E., and Mrs. Barbara Couture appeared before the Board.

Chairman Yagey stated that lots are running off of Tibbitts Road, which is a County road. Town Planner Schwenzfeier said Lots 1 through 5 will share, by easement, a common driveway having connection with Tibbitts Road at a point opposite the upper Jubilee Lane and that Lots 6 – 9 will share, by easement, a common driveway at a point roughly between the two Jubilee Lane entrances. Chairman Yagey mentioned that the Town is questioning as to whether some of this land could be deeded over or used by the Town to provide catch basins for water runoff. Chairman Yagey said that he and Mr. Ehre had a discussion about Jubilee Estates because those catch basins did not do what they were intended to do. This has nothing to do with this project, but a water runoff problem exists in that whole area and something needs to be done about it. It was recommended by the Town Highway Superintendent that we have a study done about the water runoff as it pertains to this project before we proceed into any approval of the plan.

Board Member Arnold asked if it goes beyond this project only or up the hill? Chairman Yagey said he does not know at this time. Board Member Green asked if the problem found to exist at Jubilee is somehow being alleviated by going across to this property? Chairman Yagey said it was recommended to hire someone to take a look at the water runoff on this side of the road – an independent study. The report may come back stating

there isn't a problem, but we don't know. Chairman Yagey also referred to Lot 4, as there is a proposed water tank for this lot. Town Planner Schwenzfeier said he wasn't aware this proposed tank was still an agenda of the Water Board.

Board Member Donovan asked if the water runoff from this proposal goes into Jubilee – it was stated no because Jubilee has their own runoff system.

Board Member Green noted that the Board Members receive packets of information a week before the meeting and this plan isn't even the current proposal - he feels the Board Members don't receive updated information. In fairness to the developer, he doesn't feel this application should be tabled. Chairman Yagey explained that there will be no voting on this application this evening, as this project requires a Public Hearing, we are going through the procedures. Chairman Yagey said he is bringing this to our attention for thoughts and concerns so that the next time this Board convenes, it is not water runoff that we address. He also brought up the tank issue as he feels it is something we should know.

Attorney Herbert Cully referred to water. He said this development would have wells, no water is planned for these lots. As it relates to water runoff, Mr. Ehre provided a submission, which is a complete packet with maps attached for Lots 6 through 9 – and it was submitted two (2) weeks ago. Attorney Cully also referred to the catch basins not working for Jubilee Lane. He explained about the gabion baskets and the flow to Oxford Road – at that point Oxford Road was already backed up. The ditches couldn't handle the water and he feels the gabion basins at Jubilee worked fine.

Chairman Yagey referred to a meeting where the Town hired someone to do some work regarding the storm water situation. Reference was made to contact that person to coordinate work with the Owens' project.

Attorney Cully said the sanitary is an extension that the developer is going to do. They have tested the water quality and it came back fine. Everything has been done and submitted.

Board Member Arnold is not disagreeing with anything, but he would think the Town has to look at future development up the hill and think about whether there is a need for this facility tank in this area. If the Town recommends to evaluate it, he thinks it should be done.

Board Member Donovan wanted to know the scope of the person hired – was it for Jubilee? Chairman Yagey said his responsibility is to take a look at the water runoff. We have the responsibility to make sure there is no problem and we don't have the capacity

to understand that – this is why we need to hire someone. Attorney Cully welcomes anyone to review Mr. Ehre's calculations and he would like to this project to keep moving along.

Mrs. Couture asked to address the Board. She referred to the water tank – the Owens' have tried to get water for ten (10) years. The Water Board started looking at Lot 1 and there were some objections. Then they talked about putting a tank on Lot 13 and the Owens' haven't heard anything. Now the Water Board is saying they don't need a tank for at least ten (10) years as a tank has gone to the Sitrin project. She said if they put a tank in, it would be on the top furthest corner near Tibbitts Road up the hill.

Chairman Yagey said until we send this to the Water Board, we have to address it. Board Member Arnold recommended rather than sending this as a SEQR response to the Water Board, why doesn't the Town Board have Chairman Yagey ask for a specific plan from the Water Board for this hill. It may not even be on the Owens' property – if we refer to just the development, they may not look at it in its entirety. He feels we can't develop on this side of Town without public water and this is an important issue. Chairman Yagey said he would like to have their intentions about a tank.

Mr. Virkler addressed the Board stating that it is likely he will be developing this project. He understands their obligation for storm water cannot exceed the runoff when we do this project. He feels they will meet their obligation that the water won't be any worse. Chairman Yagey said this Board wants to verify this. Mr. Virkler also said he would like to meet with the Town and provide some land for storm water management and transfer it, title it, or grant an easement.

Board Member Arnold asked Mr. Virkler if he would develop this plan differently with public water – Mr. Virkler said it could be more feasible with Town roads.

The Board discussed the need for a consultant – it was the unanimous decision of the Board Members that a consultant should be hired. Chairman Yagey said that the procedure is we hire that consultant at the developer's expense. Town Planner Schwenzfeier said the applicant provides us a sum of money for engineering services and anything left over is returned to the applicant. Mr. Virkler said he is agreeable to this.

Chairman Yagey said if we can tie into the person hired by the Town at no additional or little cost, can he review the Owens' project? Mr. Ehre agrees with this. Town Supervisor Humphreys added that the consultant is paid for by Jubilee Estates but if he is willing to take a look at Mr. Ehre's figures, we can use the same person, but he will have to be billed separately. The Board Members agreed.

Reference was made to the water quality tests done – water quantity is a concern.

Board Member Green asked, is this the best proposal for this piece of property? He stated that Board Member Arnold has previously suggested a road and cul-de-sac. Mr. Virkler said a road would be too costly, about \$200 a foot. Board Member Green asked if someone from the Town could give the Board the benefit of the cost of building a road and cul-de-sac so we, as a Board, know exactly how cost effective or ineffective that would be? He said that it is being represented to us as not cost effective, but it is not a big cul-de-sac we are discussing. Perhaps we could ask the consultant or someone from the Town to give us an idea as it will reduce the number of driveways onto Tibbitts Road. Mr. Virkler stated he does not want to redesign the project, it is not economically feasible. Mr. Virkler feels when this is done, it will look like the rest of the homes on Tibbitts Road. Board Member Green said he wants some information and he will seek that information from Highway Superintendent Roger Cleveland.

Board Member Wood asked if there were any restrictions on what they can do in the back of the properties – Mr. Virkler said there would be only zoning restrictions – there may be some deed restrictions on the size of the house, and maybe some restrictions on the land, i.e., no trail bikes – things of that nature.

It was decided that the Town Planner Schwenzfeier would contact the Water Board for input from them and Town Engineer John Meagher would coordinate the consultant with whatever the Town has done for Jubilee. We have to verify the wells with quantity and that is deemed by safe water yield tests – the Board can require it by lots. It was the consensus of the Board that the developer do safe water yield tests. It was suggested drilling wells on Lots 1, 2 and 3.

Board Member Arnold said we need someone who is an expert in this type of testing and that person would deem where the lots should be drilled. He suggested that the Town Planner or Town Highway Superintendent would find someone to do this testing. Also, that people on the adjoining lots be notified so that they have sufficient information ahead of time that this testing is being done. Board Member Arnold also wanted to know if the developer would entertain any portion of land for parks. Mr. Virkler said he would meet with Highway Superintendent Cleveland and Town Engineer Meagher as to whether or not there is some interest now or in the future for the Town.

Chairman Yagey stated to Mr. Ehre that if he submitted a report that they drilled and found it to be okay, this Board would look at it. It was decided that Mr. Ehre could do the drilling, Town Engineer John Meagher would coordinate with the storm water consultant, and Town Planner Schwenzfeier would contact the Water Board.

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Town of New Hartford  
Planning Board Minutes  
August 23, 2004  
Page 12

Correspondence:

- a. Fencing for The Orchard project - Mr. Adler appeared before the Board stating that he would like to install a stockade or split rail fence along the upper most portion of his project rather than a 6' chain link fence as required by this Board. He feels it would be more aesthetically pleasing and better fitted into his project. Mr. Adler said that NYSDEC doesn't require fencing around detention basins. The Board discussed the safety issues. Chairman Yagey mentioned keeping the 6' chain link fence, but planting shrubbery around it to make it more pleasing – this is an option. After a brief discussion, Mr. Adler said he would appear at the next Planning Board meeting with a drawing indicating some options.
- b. Fencing for Whitetail Meadows Subdivision, Oneida Street, Chadwicks – no discussion at this time.

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At this time, the Board went into Executive Sessions to address a proposed project at 10:00 P.M. The Board came out of Executive Session at 10:20 P.M.

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There being no further discussion, the meeting adjourned at 10:20 P.M.

Respectfully submitted,

Dolores Shaw  
Secretary

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