

MINUTES OF THE REGULAR MEETING
DECEMBER 15, 2004

The Regular Meeting was called to order by Chairman Joseph Yagey at 4:00 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 Attorney Vincent Rossi, Codes Enforcement Officer Jerry Back, Town Planner Kurt L. Schwenzfeier, AICP; John Meagher, Senior Engineer; Police Chief Raymond Philo, Mr. Donald Weimer of the Upper Mohawk Valley Regional Water Board, and Secretary Dory Shaw.

Minutes of the October 25, 2004 and November 29, 2004 Planning Board meetings were approved by Board Member Bob Imobersteg; seconded by Board Member Bob Wood. All in favor.

Chairman Yagey explained that the Town Board has requested a meeting with the Planning Board at 6:00 PM tonight. If our Planning Board meeting is not finished at that time, we will reconvene at 7:00 PM.

AGENDA ITEM

Valley Gymnastics, 117 New Hartford Street, New Hartford. Preliminary Site Plan Review to convert the metal storage building behind the existing Valley Gymnastics for a Karate School and some office space, bathrooms and related corridors. The Karate School will be moved out of the existing gym. They need to complete a parking lot of 44 spaces. The existing building has uses, such as dance studio, nail salon, tanning beds, and food service. Mr. Donald D. Ehre, P.E., appeared before the Board.

Board Member Green asked how the number of parking spaces are calculated as a retail use. Town Planner Schwenzfeier said parking is one space for every 200 sf. Board Member Green has concerns about the different types of uses in this building with regard to parking and any changes in use that could occur in the future – how would parking be calculated then. Chairman Yagey explained the procedure in the Town Code for parking spaces, we do not attempt to assign parking spaces by volume as there is no control.

Board Member Green noted that there are parking issues in the Town and he wanted the Board made aware of his concerns at this time.

Board Member Donovan felt that this Board did not have the authority to require additional parking beyond the Code. He also asked the Town Planner if there was a parking issue at this site – Town Planner Schwenzfeier said he wasn't aware of any. Board Member Donovan felt that in lieu of a public safety issue, police and fire, he didn't see a problem with using the present Code ratio. Board Member Arnold referred to retail calculation ratios compared to restaurant use as they are calculated differently. He feels that the Town Planner should give this Board a recommendation on this. He thinks the developer has made a close parking calculation and he would like to see fewer parking spaces.

Codes Enforcement Officer Back stated that when Valley Gymnastics first appeared before the Planning Board, it was for a health club with an area for coffee/food for the front building only and now they want to use the back also.

Mr. Donald Ehre stated that Valley gymnastics has an agreement with the Ramada Inn for use of the parking facilities when necessary.

The Town Planner was asked about drainage. This will be reviewed during SEQ. The Town Planner was asked to report back to this Board regarding drainage; to check with Niagara Mohawk regarding the culvert; to make a recommendation on parking; and to check with Oneida County DPW and NYSDOT for their comments as well. At this time, motion was made by Board Member Jerome Donovan to have 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
Board member Ronald Morelle – yes	

Motion was passed by a vote of 7 – 0.

DISCUSSION ITEMS

Longworth Acres, Major Subdivision on Tibbitts Road, New Hartford, New York.
Messrs. William Virkler and Donald Ehre appeared before the Board.

The Board was handed a report received at 4:00 PM today from Shumaker Consultants regarding the storm water issue.

Chairman Yagey stated that this Board had been told that there was no public water and we asked the developer to drill the wells for testing and we also asked that a study be done to determine water runoff, either done by Donald Ehre, P.E., to validate his study or to contact someone else to do a study. Since that time, we have been notified by the Water Board that public water is available on that site for this project. There are some decisions that have to be made in order to get the public water. Chairman Yagey introduced Mr. Don Weimer of the Water Board.

Mr. Weimer presented a map of this project as it relates to water for the Board to review. In 1999-2000 he met with the Town Board and outlined four or five areas of deficiencies in the Town of New Hartford. The Town is moving forward with those, i.e., a water tank and storage on Higby Road, which is going forward next year. He referred to the engineer's report to the Town Board for water mains and a water tank that will be built on Snowden Hill Road and Tibbitts Road. There are water deficiencies in this part of Town and Longworth Acres is this area. Also discussed was a letter in 2001 to residents where he talked about what was going on in the Town for future projects as it relates to water. Mr. Weimer referred to a letter to the Planning Board dated October 25, 2004 where he discussed, specifically, Longworth Acres. Mr. Weimer spoke of the upcoming projects going forward in the near future and the plans the Water Board has for their improvements. He referred to the 14 lots of Longworth Acres. On the map he has shown the lower construction that involves the Water Authority facilities that need to be built showing future water main built by the Town and where the lots are – the existing water mains going into Jubilee Estates. There is an existing 8" water main on Tibbitts Road – this is to Jubilee Estates. Also, a pumping station is at Jubilee Estates to provide for 6-7 homes in that project. This is where it ends. Chairman Yagey asked if there is a pump close to Oxford Road to Jubilee Estates – Mr. Weimer said there is one. Chairman Yagey asked if the water flows naturally – yes. Mr. Weimer said the Water Board doesn't provide water to areas in which they can't provide 800 gallons a minute for fire flows and 35 psi. We have updated the standards to try to improve the system. Right now as far as existing fire flows, near Imperial rive area, we have about 750 gallons a minute. He feels we need to move forward with improvements – he felt there is enough water to supply domestic use and he would go back to the Water Authority and if the Fire Chief says he can protect this area, and provided he makes that kind of statement, then he will be willing to provide water. Chairman Yagey stated that Mr. Weimer is saying the Water Board says there is no problem in providing public water to that section known as

Longworth Acres (a portion thereof). Lots 1 through 6 would need to have an 8" main, but because the Town has expansion plans, a 10" main would be recommended.

Chairman Yagey said 1) they need a main that will take it up to Lot 1; 2) we still have not resolved the problem beyond Lot 6. Chairman Yagey asked how we get above this from Lots 7, 8 and 9 – it was stated by a pumping station. Chairman Yagey asked, if a pumping station was not constructed, what would be a normal flow of psi – Mr. Weimer said below 20. Chairman Yagey asked who pays for the main – Mr. Weimer said the developer pays for it. However, if the developer wants to make some type of agreement with the Town because the Town will eventually utilize this, it is between the developer and Town – it is not the Water Board running the line. Board Member Arnold stated that if there was an interest further up, that would be something the developer would look to the Town for, or another improvement district, to increase the pressures up the hill. If there is a small pump that would preclude any development – it may be in the Town's interest to bump it up from the developer.

Chairman Yagey said there are two (2) major issues. . . 1) water, that has now changed as there is another option and we need to address our original concerns about the approval of this project as it relates to water; and 2) water runoff, and we asked for the study on this. We do not know if this project would add to the water runoff problems. This has not been answered yet. Board Member Donovan asked, if this project were to be phased, how would the phasing impact the water runoff – Chairman Yagey said we look at the whole project, it is not piece-mealed. Board Member Arnold thanked Mr. Weimer for his presentation as it focused on the issues. But his understanding is that the unavailability was significant with the layout of this development. He heard for the first time tonight that there was an overall plan presented to the Town Board in 2002 and he doesn't understand how we just heard about it and this project has been before us for six (6) or seven (7) months. He feels it is unfair to the developer and this Board. Water is the key to development and how it should be laid out.

Chairman Yagey asked Mr. Virkler – now that there is a possibility of water to this project, does that in any way change the plan? Mr. Virkler said no. It is not economically feasible – the design will remain the same. Board Member Arnold referred to Jubilee Estates where there are internal roads and public water, and the layout of this project. Mr. Virkler said this is the best use for this property and he spent a long time creating this subdivision – this is the plan he came up with as a result of this. He won't change it as he feels it is a good plan. Chairman Yagey asked Mr. Virkler, is this the plan you would like this Board to proceed with – Mr. Virkler said yes. He will resubmit the plan to show the public water. The Board discussed water runoff and the statement made by Shumaker. Mr. Virkler said he entered into an agreement with the

Town to review the number and calculations and it cost him \$1,500. This Board is looking for a statement that Shumaker reviewed Mr. Ehre's report and validated it or not.

Board Member Green feels a Shumaker representative should address this Board in person to explain what was done as it appears they did not have enough information. Mr. Ehre said that Shumaker did not contact him regarding this for any additional information. The Board felt they need some direction regarding the runoff issue.

Chairman Yagey asked the Board if it is their opinion that the developer go back and submit plans that would include the use of public water on this project, i.e., a pumping station – the answer was yes. The developer will have to come back stating that public water is available to all lots. Discussion ensued regarding Lots 11, 12, and 13. Mr. Virkler said he is going to put public water to serve Lots 1 – 9, not Lots 11, 12, and 13. Mr. Weimer would support a new water district to extend the water main and if a water district was formed at Town expense, that would incorporate the bottom houses and a new water district could be formed. Mr. Virkler would be happy to support this. Until such time, those lots will be serviced by a well. Chairman Yagey reiterated that Mr. Virkler is willing to put in public water for Lots 1 – 9, but not Lots 11, 12 and 13. Unless there is a water district created, but up until that point, it would be wells. Board Member Arnold would like to see a water district created. Town Supervisor Ralph Humphreys explained the procedure for creating a water district. Mr. Virkler said if the Planning Board would like it, he would preclude the sale of those lots for a reasonable period of time to see if a district is going to be formed. Does the Town have to do some preliminary engineering? Mr. Weimer said a study has to be done and a cost estimate prepared, district limits and an amount shown.

Board Member Green stated that with the revised plan, it would include only Lots 1 – 10 and that would include public water to each of those ten lots; then Lots 11, 12 and 13 would be taken off of the proposal? Mr. Virkler said no – he would like to leave those lots on there. Board Member Green would like to see a district approved. (Lot #10 is fronting on Oxford Road and this lot could have water immediately).

It was determined that the Town Planner and Town Engineer will get the information from Shumaker and let him know of this Board's concerns. We want to know whether he agrees with Mr. Ehre's report or if he needs additional information. Board Member Green suggested that a representative from Shumaker attend our Planning Board meeting.

The Board discussed the report from Shumaker. The Board wants to know if water runoff will be created with this development. Board Member Arnold feels Shumaker has to look at a larger area, but we need to move ahead.

Chairman Yagey stated that **Mr. Larry Adler** asked that his agenda item be removed at this time.

Eckerd's, Commercial Drive/Henderson Street. Proposed pharmacy in the Town of New Hartford and Village of New York Mills on approximately 3.91 acres. Zoning: Retail Business 1. Mr. Jim Rumsey, Theresa Bakner, Esq., and Mr. Dan LoBlamowski appeared before the Board.

Chairman Yagey stated that when the Public Hearing was held on November 29, 2004 for this project, comments were made and the residents raised some concerns, and those concerns were relayed to the developer. He also referred to the letter received from the Town of Whitestown for the Board's review (this has been made a part of the file). There will not be a vote taken this evening, it is for discussion. SEQR is still open. Benderson has come back with a revised plan, which encompasses all of the discussion that took place.

Mr. Rumsey of Benderson Corporation addressed the proposed wall, which is a cedar wood fence, 6' high; the trees will be 10-12'; the building has been reduced by 1,000 square feet; and the entrance on the north side of the site has been moved away from the corner.

Chairman Yagey referred to traffic issues at the intersection and the entrance off of Henderson Street/Commercial Drive. The only item is the question as to whether you can make a left in or out and that is NYSDOT's call, not us. Board Member Arnold asked if the entrance was moved south along Commercial Drive so it's at the curb cut that exists now – the reply was yes. He also asked if they are proposing left out and in from Henderson – the reply was yes. The Town Planner said there are four (4) lanes at the entrance on Henderson – there is a stacking lane going towards Commercial Drive. Traffic will be able to proceed. Board Member Arnold has concerns about the stacking of cars on site. He also referred to the calculations the developer is using regarding open space as they are including the large undeveloped parcel – Board Member Arnold feels it will be developed and shouldn't be used in the open space calculations - the Town Planner said that green space is under review at this time. The Town Planner referred to the new submittal as it is only showing about 21% green space. The developer needs 34% to meet Town Code.

Reference was made to the fencing along the rear, as it was the feeling of the Board that residents wanted fencing/wall to go all along the rear of the parcel, including the undeveloped part. Theresa Bakner, Esq., stated that they could place fencing all the way up with landscaping on both sides. She also stated that trees would be staggered and if the Board would like more green space, they would do it. Mrs. Bakner also stated that the people in the rear are exposed to Commercial Drive now. Discussion ensued regarding the types of trees and the purpose of the fence and landscaping and how it would act as a visual buffer. Benderson will maintain the fence and landscaping.

Board Member Green also felt he thought the residents wanted a concrete wall with at least 8' in height. He referred to the map and location of the building. He would like to see a reconfiguration of the building because he feels this building cannot be placed on that size lot without proper green space, sidewalk and turning lanes. He would like to see it reconfigured after the required space from the roads and the neighbor's properties. Also, he would like to minimize driveways from this intersection – two lanes in and two lanes out. Board Member Green feels there should be a right turn in and right turn out on Henderson Street. Mrs. Bakner said Benderson would widen the entrance so as to allow more room for a better turn.

Theresa Bakner, Esq., stated that it is hard to reconfigure a building as they use a certain prototype. Also, she said NYSDOT approved this as a full access intersection on Commercial Drive and Henderson Street. She said that Benderson is willing to have a right out on Henderson only at this time and wait until Judd Road is open to gain full access. Discussion of this option was discussed.

Board Member Imobersteg questioned the aesthetics of a concrete wall. Mrs. Bakner reiterated that the wooden fence could be 8' in height. Codes Enforcement Officer Back stated that the maximum height for a fence is 6' unless they applied for an Area Variance from the Zoning Board of Appeals. He also addressed the placement of snow and runoff. Mrs. Bakner stated that the whole site has been designed so that the water runs southwest. It will be collected into a single location and this can be reviewed further is necessary.

Board Member Wood referred to the exit on Commercial Drive as he feels there should be two lanes going out. Discussion took place regarding making it wider and Benderson is willing to do it.

Board Member Arnold stated that we should ask for a site improvement of landscaping contingency because we have a hard time visualizing what it would look like. We want to be able to have a bond submitted for landscaping in the event something happens to the trees. This developer does a good job and is coming in with a set of plans to maximize

their property. He feels what Board Member Green is outlining is an excellent check from the Town's perspective regarding some basic designs.

Chairman Yagey stated that at this point the Board reviewed widening the driveway on Commercial Drive; the fence be 8' in height and to have the fence all the way down the property line; landscaping be placed on both sides of the fence – staggered to have a visual affect; more green space to comply with Town Code. Theresa Bakner stated that on the plan green space is shown as 34% - she will check with the Town Planner on this further.

Theresa Bakner addressed the Board stating that she would make the same offers that were discussed with this Board to the Village of New York Mills also. Board Member Donovan stated that as part of an approved plan, he wants to make the changes subsequent to Judd Road being open. Mrs. Bakner said that is up to the Village of New York Mills and the reality is that they can make it a condition of the approval – a conditional Certificate of Occupancy – it is their call. As far as the changing of the building type, that is hard to do because of cost and tenant involvement – they would have to contact Eckerd's about this.

At this time, the Planning Board met with the Town Board at 6:00 P.M. to address the planning process for projects:

- Pier 1 parking space increase – Councilman J.C. Waszkiewicz wanted to know the procedure for handling site plan changes for projects – it was determined that the Town Planner, Codes Enforcement Officer and Town Engineer, or a Planning Board Member, notify the Town Board when a change to a site plan should come back before the Planning Board for review and when Staff could handle it on their own. This allows every developer to be treated the same.
- Water studies for Storm Water Management – the Planning Board had requested a study to determine the affect of storm water on Longworth Acres and this Board is aware of the whole area. The Town Board is looking at another study and they are requesting Planning Board's opinion. The area on Kellogg Road, lower Tibbitts Road and Oxford Road has a storm water problem and the Highway Superintendent has said the storm water is failing in this area.
- Parks Master Plan Trail Systems – Councilman J.C. Waszkiewicz would like the Planning Board to create some type of document that when a subdivision is approved, there be an allowance for additional green space/recreation area or some other mitigating factor. Town Attorney Rossi said this would give us the

power when someone comes before the Board for a subdivision to set some land aside or some monetary amount. The Town Attorney said we have the authority to have the developer do it, but we need a factual determination – Attorney Rossi will get us the correct language. Board Member Green asked if it is too late for the project before this Board at this time, Longworth Acres, to be a part of the Parks plan – Attorney Rossi said he didn't think it was too late.

- Subdivision Regulations were discussed.
- GEIS (Generic Environmental Impact Statement area) was also discussed.

The Planning Board resumed their Regular Meeting at 7:00 P.M.

Salvation Army, Seneca Turnpike, New Hartford. Proposal for a new building with associated parking. Zoning: Planned Highway Business. Mr. Jeremy Klemansky, Director of Operations for salvation Army, Mr. Robert Seigart, AIA, of Schopfer Architects, and Tracy Wittenburg, esq., appeared before the Board.

Chairman Yagey stated that the Salvation Army had a conceptual meeting with Staff to obtain information to ensure compliance with the Town Code. However, there is very little resemblance of what Staff saw at the conceptual meeting. They are asking us to take a look at their conceptual plan for discussion and possibly open SEQR. Staff had requested a road/driveway to Middle settlement Road and the applicant didn't do it. They are proposing to demolish the existing Alfredo's building and construct a new building on the site.

Mr. Seigart stated that the road is not shown because it is too steep to come straight into a State highway and they made this recommendation to the Salvation Army. Chairman Yagey referred to the other businesses in the area that have access to Middle Settlement Road. The Board also referred to a previous project that was given approval at this site, but approval with a road exiting onto Middle Settlement Road.

Board Member Donovan referred to storm water – a detention basin would be put in.

Attorney Wittenburg stated that a road would be a liability problem. It may require a retaining wall, but there would be a liability – she feels this should be a concern of this Board, also. She feels the architect is their expert on this.

Board Member Imobersteg said NYSDOT came to us and they had an improvement at the Jay-K intersection. The state said as long as it wasn't 15% steep, it could be done. He stated that the speed limit goes from 40 MPH to 50 MPH and the road narrows, and

there have been many accidents in this area, including a death in front of Alfredo's. Chairman Yagey said the Police Chief has stated that he will have comments concerning traffic in this area and other agencies will respond when this is sent out for SEQR. Chairman Yagey said he has a big concern with traffic as it is a dangerous area, but this is his opinion. Mr. Seigart said he walked the site with NYSDOT and they tried to work it out.

Board Member Donovan stated that it is up to the applicant if they want this plan to go to SEQR or if they want to listen to the members of this Board to incorporate the road into a different plan.

It was stated that they plan to have a 6' high fence along the back of the property and this is a prototype building they use throughout the country.

Board Member Imobersteg asked what type of volume of business they have – they expect about 350 paying customers a day and then add another 150 cars – a total of about 500 cars a day. Their hours would be 9 AM to 9 PM with no Sunday hours – no retail on Sundays. They may have a few people there on Sunday, but no retail business. They were asked about truck traffic – they have three (3) 18' trucks that they use a day. They pick up donations and take them to two (2) other stores in the area. One of the trucks will run between Utica and Syracuse. The three (3) trucks will be parked on the site. The applicant stated that they plan on combining the two (2) parcels – no subdivision is required.

Board Member Arnold said the developer has proposed a lot of landscaping, but looking at the Town's perspective, would they be willing to consider more extensive landscaping along Route 5 on the west side, which is where it is seen by everyone, every day as the drive by – the applicant said yes.

Codes Enforcement Officer Back said when Mr. Zumpano came to this Board for his project as this site, he got an approval with a road to Middle Settlement and the NYSDOT approved it.

Mr. Klaminsky said when they met originally, the road was planned, but now they said they need additional property or an easement.

Board Member Arnold said at other sites they have problems with after hours drop offs of garbage, etc., how is this going to be controlled – will this be staffed 24 hours a day? It was stated that at the drive-thru on Erie Boulevard in Syracuse, they have almost no dumping at the site – it is staffed on weekends from 9 AM to 9 PM and 9 AM to 5 PM on Sundays, although there is no retail business on Sunday. Because of the design, it is

much better lit and located in an area where if someone drops off items after hours, they can be seen.

Board Member Donovan asked if this development is tax exempt – the answer is yes.

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

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

Motion to send out for SEQR was passed by a vote of 7 – 0.

At this time, motion was made by Board Member Gerald Green to recommend Board Member Hans Arnold to be Vice-chairman of the Planning Board; seconded by Board Member Bob Imobersteg. All in favor.

There being no further business, the meeting adjourned at 8:15 P.M.

Respectfully submitted,

Dolores Shaw
Secretary

dbS