

MINUTES OF THE REGULAR MEETING
FEBRUARY 28, 2005

The Regular Meeting was held at the Municipal Building at 1 Maple Street, New York Mills, New York. This meeting was called to order by Vice-chairman Hans Arnold at 6:30 P.M. at which time the Pledge of Allegiance was recited. Town of New Hartford Planning Board Members present were Gerald Green, Ronald Morelle, Jerome Donovan, and Bob Wood. Absent: Chairman Joseph Yagey and Board Member Bob Imobersteg. Also in attendance were Town Supervisor Ralph Humphreys, Codes Enforcement Officer Jerry Back, Town Planner Kurt L. Schwenzfeier, AICP, Town Engineer John Meagher, and Secretary Dory Shaw.

In attendance from the Village of New York Mills were Acting Planning Board Chairman Leo McCoy, Village of New York Mills Planning Board Members Lynn Cross and Jim Bombace, Jr. Also in attendance were Village of New York Mills Mayor Robert Maciol, Trustees John Montrose and John Seminiak, Village Clerk/Treasurer Sharon A. Guca, and Village Engineer Al Swierczek.

Proposed **Eckerd's Pharmacy** for property owned by RB-3 Associates, located on Henderson Street and Commercial Drive, Town of New Hartford/Village of New York Mills, Oneida County, New York. Attorney Daniel Ruzow of Whiteman, Osterman & Hanna, LLP; Mr. Jim Rumsey of Benderson Corporation; and Mr. Daniel Aken, AICP, Senior Planner of FRA Planning Services, appeared before the Board all representing RB-3 Associates (Benderson Corporation).

Mr. Leo McCoy stated that the agenda for the joint meeting is for the proposed Eckerd Pharmacy on Commercial Drive and Henderson Street. He asked that the applicants present their latest proposal.

Mr. Jim Rumsey presented a plan for a 12,890 square foot building, reduced in size by 1,000 square feet from the original plan. They have egress/ingress off Commercial Drive and a right in/right out turn on Henderson Street. They have proposed a 6' to 8' board on board fence along the south property line against residential properties with trees on both sides of that fence. There are two (2) options for the fence, board on board or a solid wood fence. He displayed a computer rendering showing a view from the residences of how it would look with the fence and landscaping. Attorney Ruzow said it doesn't matter

to them regarding the height of the fence and they are aware that if an 8' fence is requested, they would need a variance.

Mr. Dan Aken appeared before the Boards and addressed the traffic flow pattern for cars and trucks at the site. Discussion ensued regarding the truck traffic, loading and unloading of these trucks and how it would affect the adjacent residents. Mr. Leo McCoy said that at the last meeting in New Hartford, it was mentioned that no truck traffic be directed along the fence line by the adjacent residential properties. Mr. Aken said their plan allows for what he feels to be easy access flow for cars and trucks. Mr. McCoy indicated that the Village of NYM didn't want trucks coming out onto Henderson Street. Mr. Aken stated that if the Village of NYM prefers another method for truck circulation, they could recommend it to Brooks (Eckerd's). It was agreed by Benderson representatives that there would be no truck traffic along the adjacent residents' properties, and that it be shown on the final set of plans.

Mr. Aken referred to the driveway location on Commercial Drive and the response from NYSDOT. Mr. Aken said he met with Mr. James Papaleo of NYSDOT and stated NYSDOT did not want the driveway in the taper only, either on the south or north. Mr. Aken went with the northern taper that would help with any future development on this site. Discussion ensued regarding the NYSDOT input and a letter from them in writing stating that this is the precise location – as of this date, no written response has been received (Mr. Papaleo has not been available due to a death in the family). Mr. Aken said if it is the desire of both Boards to move the driveway further south, they would need a NYSDOT permit to do so. Mr. Aken said anything more south interrupts site distance, in his professional opinion.

Mr. McCoy referred to the fencing along the residents on Royal Brook Lane. He has had some discussion with the neighbors regarding this issue. Mr. Bart appeared before the Board as a resident and stated he has had discussions with the neighbors also regarding the type of material, i.e., wood vs. vinyl. He felt the people want the full benefit of an 8' fence. Mr. Rumsey stated that Benderson will have the fence about 1' – 3' in along the property line on the Benderson side. Mr. Bart referred to the contour/grades of the lots and how it changes. Mr. Bart said the people want the landscaping to take place on Benderson's property with landscaping on both sides of the fence. He went to each neighbor and had them write what they wanted, and the decision for a type of fence was split between wood or vinyl. Mr. Rumsey said that the fence would then have to be closer to the Commercial Drive area to accommodate the trees and fence. Mr. Bart asked if the lower parts of the adjacent properties could be filled to accommodate the proper fence height – Mr. Aken said this would create a drainage problem.

The Board Members discussed the type of fence to be constructed, wood, vinyl or masonry and the maintenance/color of the fence. Mr. Ruzow said Benderson would make the fence 8' all the way down as requested, however, they need to know what height and what type. Mr. McCoy asked the applicants if they had any fence materials to present? Mr. Ruzow said not at this time, and he stated that he feels vinyl doesn't hold up. Mr. Bart said it could not be determined at this time exactly what the neighbors wanted, the neighbors want a fence high enough to block this project with landscaping on both sides of the fence on the Benderson property.

Mr. John Montrose addressed the Boards stating that he talked with some of the neighbors and they are concerned about the maintenance of the fence, especially with a snow load. They don't want the fence to be in constant disrepair.

Vice-chairman Arnold feels the fence should be durable and as attractive as possible. Mr. Arnold asked the developer if they thought a masonry fence would be possible? Mr. Rumsey said no because it is very costly and they feel it is not attractive – he also feels the neighbors wouldn't like it – he feels a wooden fence is softer in appearance, especially with the plantings.

Board Member Green addressed the Board. He feels that the Town Engineer and Town Planner should walk the property to establish where the fence needs to go so it achieves the intended purpose and some site work may be needed. He feels there are many types of fences available. There appears to be an appearance issue with regard to sound and visual preference. He has seen fences with brick pillars with wood sections in between, etc. He feels that Staff should come up with something and propose it to the developer and have them come back with a plan, materials, etc. Board Member Green stated that future development is coming in and the fencing issue should be addressed effectively. Perhaps Town Planner Schwenzfeier should meet with the residents and discuss the fence issue.

Town Planner Schwenzfeier addressed the Board stating that he has talked to residents and feels the neighbors don't want to look at a brick wall. He has also talked to some of the residents and they are divided about the type of fence, wood vs. vinyl, not masonry.

Vice-chairman Arnold asked the Town of New Hartford Planning Board Members if there was anything else they would like to address regarding the fence or buffering – the Board Members said no.

Mr. McCoy stated that the Village of NYM Board Members want to see an 8' fence with trees/plantings on both sides of the fence on the Benderson property, not on the neighbor's property. He doesn't know if wood is better than vinyl as he feels there is no

definable indication of what the neighbors want. He feels the maintenance of the fence could be handled through regular Village of NYM Codes procedures.

The Boards discussed the exit out to Henderson Street. Mr. McCoy would like to see an island/curb setup on the property by the exit to Henderson Street to guide traffic to turn right only out to Henderson Street. Mr. Aken said the restrictions in the driveway were only until Judd Road was in place and once Judd Road is done, they would look at this situation to see if the signs could be removed – they don't want to put any restrictions in there for whatever reason. Mr. McCoy said New York Mills' feeling is that signs are inadequate and they want a curb at this exit. Mr. Aken said it was NYSDOT's feeling that limiting right turn in and right turn out could go away once Judd Road was in place and they would leave the signs up to restrict the right in and right out but they don't want to put in a curb. Board Member Donovan asked if traffic control on Henderson Street extends to the Village of New York Mills Board – Mr. McCoy said yes. Mr. McCoy stated again that it is his recommendation (and he can't speak for the Village Board but he feels they would concur with him) that something more than signs to direct traffic out to Henderson with a right turn only would be needed. It was decided that this matter would be reviewed by the Village of New York Mills Board. Vice-chairman Arnold recommends that the Town of New Hartford Planning Board support the Village of New York Mills Board on this.

Mr. Aken did not agree with the Boards regarding the issue of the island. Mr. McCoy feels that the island is there to protect the people and even if the traffic does decrease, there is still a traffic problem in this area – he said there is a history of traffic accidents at this location. Vice-chairman Arnold said he feels there should be some type of structure and if the developer wants to come back before the Village of NYM Board to have it removed at a later date, they can request this.

Attorney Ruzow asked Mr. Aken if this can be physically done – Mr. Aken said yes. Attorney Ruzow said he feels the intersection will be changed dramatically after Judd Road is in, but if they put in the structure/island and they are a problem, they will come back and ask that they be taken out. Attorney Ruzow stated that Benderson will place a “porkchop” at the Henderson Street entrance/exit for right in and right out circulation only, with signage.

Mr. Aken referred to the entrance and exit on Commercial Drive. He gave the Boards the reasoning as to why he believes the existing curb cut is there. He met with NYSDOT and they said this is where it should be placed and the reason they don't want it where it exists now is because it is in the right turn lane taper. He has concerns with cars coming

to the right and not going to know if they are getting into the right turn lane or into the

driveway. They think it will be much better if it is outside of the taper.

Vice-chairman Arnold asked Mr. Aken how many south cars can be stacked in the median on Commercial Drive – Mr. Aken said about four (4) vehicles. Mr. Aken said the taper can't be moved and NYSDOT built it and they don't want it changed. Board Member Donovan referred to the parcel across the street and how that entrance may impact this property (he also referred to a service road in the future for us to think about). Mr. McCoy said he doesn't know at this time. Mr. Aken said there is a center turn lane existing on Commercial Drive that has been provided by NYSDOT.

Mr. McCoy addressed the lighting issue. Mr. Rumsey said there aren't going to be any poles in the back of the site – the poles will be lowered down and placed in the area of Henderson Street and Commercial Drive. The building lights are about 10-12' and they shine down (these are security lights). Mr. McCoy asked about the non-operation hours – Mr. Aken said security lighting will be on and there is a design of the lights that the Boards can review. Mr. Aken will provide a photometric plan with light type and details in the next submission materials.

Mr. John Montrose addressed the Board referring back to the Judd Road issue. He stated that all of the traffic surveys were done before Clinton Street was closed

Attorney Ruzow asked if the New Hartford Planning Board was Lead Agency – yes. He wanted to know if SEQR could be determined and possibly closed this evening. Town Planner Schwenzfeier said it is up to the Board if they think the proposed changes to traffic is adequate and the public welfare of the adjoining neighbors have been adequately taken into consideration. Town Planner Schwenzfeier was asked if we have all the information – Town Planner Schwenzfeier feels the Boards should wait for the letter from NYSDOT to close SEQR as the NH Planning Board requested it as part of the SEQR process to make sure NYSDOT was adequately satisfied with the proposed driveway location. Mr. Aken asked that the letter from NYSDOT be a condition.

Vice-chairman Arnold recognized that the developer made a good effort to secure the letter from NYSDOT, but we don't have it. If NYSDOT is not happy with the placement of the curb cut, they can't get a permit from NYSDOT. Mr. Aken is aware of this.

Board Member Green addressed the Board and the developer for the record. The problems that you identify with, like the curb cut now or proposed, is a good point. However, it can't outweigh the other concerns. The other concerns are by moving this curb cut 33' down to the existing curb cut of 47' – we are now talking about an entry.

Ingress and egress that he perceives to be a better accommodation to traffic flow not only for this particular project but also for the development coming sometime in the near

future. Mr. McCoy asked whether or not the taper lane could be expanded back toward the bridge and we don't know the answer but he thinks the developer needs to address this. The entrance has to be as far away from the intersection as possible. The existing curb cut seems to be better even though it goes into the taper. So while that is a problem, that problem becomes secondary to the other issues – ingress and egress from both sides so that needs to be moved down. The other point is that the residents would not like to see two-way traffic around that fence line and if this is go, in his opinion it's going to be two-way traffic whether you want it or not. He foresees a traffic congestion problem. Board Member Green is saying that in his opinion, as he suggested last time, that the parking spaces along Commercial Drive be eliminated because this is a one-way flow around this building; a one-way around the fence side of the building because you are pushing the Henderson traffic toward Commercial Drive and around the Commercial Drive side of the building those parking spaces be eliminated on Commercial Drive. And the building itself be pushed more toward Commercial Drive and toward the green space so that those parking spaces eliminated are put on the Henderson Street side. He thinks that it becomes critical to traffic flow. The parking spaces along Commercial Drive, the curb cut, and the location of the building he is all objecting to. He feels does not feel wood and vinyl fences will do. He feels there are many fences that can be researched for masonry or brick. He feels this doesn't meet what he perceives to be the needs today and tomorrow for this particular site.

Mr. Aken said Benderson doesn't want to change the site plan at this time. Attorney Ruzow disagrees with, but appreciates Board Member Green's comments. Attorney Ruzow said this is only a 12,000 square foot drug store – they will ask NYSDOT again regarding the stacking issue.

Vice-chairman Arnold said this Board may want to write to NYSDOT for a clarification on the turning lane and taper area, whether it can be moved to the south and allow the entrance to be moved to the south, to have a right in and right out on Henderson Street, and that the implementation of an island be made to achieve this right/right turn.

The Board discussed closing SEQR; it was determined that no action would be taken.

There being no further business, the meeting adjourned at 8:00 P.M.

Respectfully submitted,

Dolores Shaw
Secretary/NH Planning Board
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