

## MINUTES OF THE REGULAR MEETING

**JANUARY 14, 2008**

The Regular Meeting was called to order by Chairman Hans Arnold at 5:30 P.M. at which time the Pledge of Allegiance was recited. Board Members present were Jerome Donovan, Bob Imobersteg, Ellen Rayhill, and Peggy Rotton. Board Members absent: Rodger Reynolds and Bob Wood. Also in attendance were Councilman David Reynolds, Police Chief Raymond Philo; Town Planner Kurt L. Schwenzfeier, AICP and Dory Shaw, Secretary.

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Minutes of the October 29, 2007 meeting were approved by Board Member Jerome Donovan; seconded by Board Member Peggy Rotton. All in favor. Minutes of the November 26, 2007 meeting were approved by Board Member Peggy Rotton; seconded by Board Member Jerome Donovan. All in favor.

Chairman Arnold referred to the October 29, 2007 minutes in reference to Sangertown Square Mall and what procedure we use to follow up on what was addressed/approved. Town Planner Schwenzfeier stated that he has a system for checking on compliance and he has discussed the pedestrian access/sidewalk system issue with Sangertown – no feasibility statement has been received yet – he will check on this.

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**GEIS Southern Territory/peter j. smith** ; Discussion of public meeting held on December 4, 2007 and any proposed additional public meetings; Acceptance of Draft. Mrs. Eve Holberg and Mr. Peter Smith appeared before the Board. The Draft Generic Environmental Impact Statement was distributed among the Board Members.

Mrs. Holberg referred to the public informational meeting held at the Sitrin Home on December 1, 2007. She was pleased with the turnout, and felt it was a thorough presentation on all of the alternatives and maps displayed.. Storm water and traffic subs were there. An alternative that appears to have emerged is #3 that was endorsed by the people who filled out the forms (Alternate #3 is Development under Urban Design Plan – Within Urban Growth Boundaries).

Discussion ensued regarding the attendance numbers, public vs. public officials. Board Member Rotton recommended having another public meeting at the Willowvale Fire

House in Chadwicks as she feels this is in the center of the DGEIS area. She is concerned as she feels she hasn't heard enough discussion about it.

Board Member Donovan felt businesses, and people who live in this DGEIS area were not adequately informed and he wants these people notified for their input – he felt that this is too expensive of a project not to get the kind of input before making a recommendation to go to Public Hearing. He feels people have a substantial interest in this area. He would like to see an outreach program implemented to alert people, especially for this affected area. He recommended contacting several media outlets, as well as possibly sending out postcards.

Board Member Imobersteg asked who is responsible for getting a mailing, etc. out – Town Planner Schwenzfeier said there is no policy for it and he would have to check into any monetary allocations for this.

Board Member Rayhill said that her personal opinion is that it comes down to changing the Zoning Law, people need to understand why we are doing this, i.e., why does this study matter and how does it affect people. She met people that day regarding what they read, but they didn't understand it. She feels we are trying to sync with the Comprehensive Plan, the infrastructure we need for the development in those areas. She also addressed reference to water and water tanks as she feels this is an important issue, especially regarding build up of infrastructure as this would support development.

Board Member Imobersteg asked if the Water Board are the people to contact regarding tanks. Town Planner Schwenzfeier stated the Town has to build the infrastructure and turn it over to the Water Board.

Mrs. Holberg asked the Town Planner if that information has been supplied to Shumaker – he said yes, however, he will follow up with it.

Chairman Arnold asked for maps in the report showing the location of future water tanks and a discussion and analysis.

Board Member Donovan referred to the Higby Road water tank and asked if it was designed to provide for additional growth in that part of town – Town Planner Schwenzfeier said it was designed within everything in the water district. There was talk about possible tanks on Tibbitts Road or Snowden Hill, but nothing current. The tank the Town would need on Longworth Acres would just stabilize the pressures, not provide for additional development.

Chairman Arnold asked, if we adopted Alternate 3, wouldn't that be in conflict with extending water into Kirkland. The Town Planner feels it would take into consideration the number of residents in Kirkland, but it will also have to be analyzed for how it may encourage growth in New Hartford.

Chairman Arnold wanted to address the possibility of another public meeting. He felt the meeting at the Sitrin Home was informative and he was impressed with the interest and quality of the questions and presentation. He does feel people need to be made more aware of what is happening and how this process may lead to modifications to the Zoning Law.

Mrs. Holberg stated that the purpose of another public meeting prior to a Public Hearing is to shed as much light before the perception that a conclusion has been drawn.

It was determined that the Town Planner would initiate the process of notification, check into available funds (if any) and coordinate a meeting time, place and date for another public meeting. Media contact/distribution, available vehicles of publication were further discussed. The Town Planner stated that if a cost is involved, he would have to approach the Town Board.

Board Members Donovan and Rotton offered their services to work with the Town Planner.

Mrs. Holberg will be in contact with the Town Planner also. She feels this Board isn't ready to accept the draft because it includes an executive summary for build out and there was proposed action under Section 2. That sets out the principles behind the urban design plan and the zoning changes that would drive this. She suggested that the Steering Committee, Town Board and Staff have more time to review it (Draft GEIS).

The Town Planner mentioned on Page 14 it talks about fees in lieu of mitigation and it doesn't suggest the Town implement them – Eve said they still have to be finalized.

Further discussion took place regarding notifying the media regarding projects in the Town.

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**Picture Perfect Pools, 8145 Seneca Turnpike** (existing at this site presently is a closed convenience store). Preliminary Site Plan Review for a proposed pool store at the corner of Seneca Turnpike and Concord Boulevard. Open SEQR. Tax Map #328.005-2-34; Lot

Size: .448 Acres; Zoning: Planned Highway Business. Mr. Donald D. Ehre, P.E., and Mr. Craig Pritchard appeared before the Board.

Town Planner Schwenzfeier referred to the conceptual plan submitted at the November 26, 2007 meeting. A new plan has been submitted with consolidated curb cuts along Route 5, they have identified parking spaces along Route 5 and Concord Boulevard which are outside and which used to be the right-of-way. There is one issue on Concord Boulevard regarding parking that would require a variance. They have provided a fence at 6' in height, which would also need a variance. Discussion ensued regarding the parking along Concord Boulevard and the traffic issues at that site. The building will be used for display of one of the pools and supplies stored outside. Board Member Donovan addressed green space. Town Planner Schwenzfeier stated they have the green space percentage now with the removal of the black top. He also stated the applicant is requesting that his application be sent out for SEQR. Chairman Arnold asked if he checked the open space issue – Town Planner Schwenzfeier said yes.

Board Member Donovan referred to parking on Concord Boulevard and the procedure in terms of a variance from the Zoning Board. It was the consensus of the Board Members to ask the developer to modify the layout of the parking spaces along Concord Boulevard as they are concerned about cars backing into the street.

Mr. Ehre explained Mr. Pritchard is willing to move the fence to accommodate parking and be able to get this approved without going for a variance to the Zoning Board, although they would still need a variance for the fence. They have the option of eliminating these spaces as they are aware of the Board's concerns with the five (5) parking spaces along Concord Boulevard.

Chairman Arnold asked if there were additional comments regarding SEQR. Board Member Rotton would like the non-conforming parking spaces removed and shown on the Site Plan before this is sent out for SEQR. Board Member Imobersteg stated if those parking spaces are removed and it becomes green space and a change made on the drawing, it could be sent out soon. He asked Mr. Ehre if he would do this – Mr. Ehre said yes. The Site Plan would be modified accordingly

Therefore, motion was made by Board Member Peggy Rotton to send this out for SEQR review; seconded by Board Member Bob Imobersteg. Vote taken:

Chairman Hans Arnold – yes      Board Member Bob Imobersteg – yes  
Board Member Ellen Rayhill – yes      Board Member Peggy Rotton – yes  
Board Member Jerome Donovan – yes

Motion to send out for SEQR was passed by a vote of 5 – 0 once the Site Plan was modified.

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**Jewel Ridge Subdivision, Phase II, Higby Road.** Tax Map #340.000-1-6; Lot Size: 8.144 Acres; Zoning: Low Density Residential. Update. Mr. Donald D. Ehre, P.E. and Mr. Gregg Grates appeared before the Board.

Town Planner Schwenzfeier stated that he met with Mr. Gregg Grates, Police Chief Ray Philo, and Robert Nole of NH School District to discuss the proposed paved walkway between Jewel Ridge and what would be the existing school site. What came out is some safety and liability concerns and that it may change from a designated 4' paved walkway to simply a green path until some point until the school puts in a path between Chapman and Higby, and then it would have a designated walkway. They would like to see it as a future proposed walkway when the Town has the chance to finalize the sidewalk plan. Also, he is not sure whether some unresolved issues have been resolved, i.e., the sewer, and DEC.

Chairman Arnold asked if there were some unresolved issues with the walkway – Town Planner Schwenzfeier said no as long as it is on the plans. The path splits two properties but it is in the same location of the utilities. It would be disclosed to those property owners and it would be on the plot as a future walkway.

Board Member Imobersteg asked what would happen twenty (20) years from now if there was a change, who pays for it? Answer: it would become a sidewalk district or perhaps the two (2) property owners would put it in themselves. They have to get the Town's permission.

Town Planner Schwenzfeier reiterated that it is a walkway but not designated. The utilities still have to be put in but it is still private property.

Police Chief Ray Philo addressed the Board stating that it is an unregulated paved driveway connecting to schools. That roadway does not meet certain designations of a public highway. For the Town to endorse a pedestrian path without mitigating the roadway, he feels it would expose the Town to liability. However, it is not a roadway. But that would have to be looked at for the Town to endorse a pedestrian pathway to do that driveway.

Chairman Arnold asked if it would be preferable to block it off or sign it. Police Chief Philo said he would sign it to make sure people understood it is not a public walkway. But to just endorse it without these safety concerns he felt would be a liability to the Town. Chairman Arnold felt the Town should take some proactive steps when these lots are sold to make sure it is not a public walkway until it is.

Mr. Ehre said a sign would be erected and he would put it on the plans also. Mr. Grates was asked if he would need a bigger right-of-way to accommodate the walkway – Mr. Grates said no.

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**Young-Duck Ahn - Zone Text Amendment, Planned Highway Business** (former Feketa site on Seneca Turnpike). Update. Mr. Donald D. Ehre, P.E., appeared before the Board.

Town Planner Schwenzfeier stated this application was sent out for SEQR, and that the Town Board recommended the Planning Board be Lead Agency. The Planning Board could declare a Negative Declaration if all comments came back showing there was no impact or no future concern. This would still have to go to the Town Board with the decision the Planning Board makes – it would require a Public Hearing (the hearing is scheduled by the Town Clerk).

Chairman Arnold asked if there is something else the Planning Board wants to see or some outstanding issues. Board Member Imobersteg said this is not a variance request or Site Plan. It is a request to the Site Plan Review uses for the ability to allow a convenience store/gas station. We already turned down a similar request across the street.

Mr. Ehre referred to lot sizes for a gas station and what he feels is an added use to the zone. Mr. Ehre questioned the lot size requirements and maybe this Board could suggest another lot size as this Board has the ability to do it. He feels there is only a limited number of properties within the Planned Highway Business zone where one acre or larger lot could exist.

Chairman Arnold stated that this would be a new use permitted in that district – the real change is a service station coupled with a store. He asked the Town Planner - this becomes a town-wide issue wherever a Planned Highway Business zone is located – Town Planner Schwenzfeier said yes. Chairman Arnold stated that a lot of thought went into the review of these zones. So when you have a Zoning Law that is not enacted for certain uses, he disagrees with Mr. Ehre's assessment – this is a big change. You are adding a new use to a district in the Town.

Mr. Ehre said he is simply saying it is not the same request as Applewood's and if it would pass, it would allow other people to come in also.

Board Member Donovan asked, what prevents someone from buying two (2) parcels adjacent to each other and coming in to apply – that is the danger of this. When this district was developed, the planners and consultants looked at this type of use and made the determination. Perhaps a public policy was made not to populate this artery with gas stations.

Board Member Rotton is concerned because a gas station was not approved on the other side within the Town of New Hartford. It is her impression that the Town was trying in the development of this zone to not have gas stations listed.

Board Member Donovan referred to the Applewood request and the request/need for a traffic light. Town Planner Schwenzfeier then referred to the areas along Seneca Turnpike and Burrstone Road which is zoned Planned Highway Business. He feels the Board has made their concerns clear.

Board Member Imobersteg feels there would be an increase in traffic and the Comprehensive Plan does not call for this use.

Discussion ensued regarding the Planned Development zone and how it is enforced – Mr. Ehre said in a PD zone you would need a minimum of five (5) acres. Town Planner Schwenzfeier said gas stations are allowed in a Retail Business 2 zone. It was stated that a request like this would be spot zoning.

Mr. Ehre read a letter from his client who could not attend (this letter was not submitted for the file).

Town Planner Schwenzfeier said this Board, as Lead Agency, needs to address the Town Board with their advisory opinion.

Motion was made by Board Member Peggy Rotton to close SEQR with a Negative Declaration; seconded by Board Member Bob Imobersteg. Vote taken:

Chairman Hans Arnold – yes	Board Member Bob Imobersteg – yes
Board Member Ellen Rayhill – yes	Board Member Jerome Donovan – yes
Board Member Peggy Rotton – yes	

Motion to close SEQR with a Negative Declaration was passed by a vote of 5 – 0.

Motion was made by Board Member Jerome Donovan to recommend to the Town Board that the Town Planning Board does not endorse the Zone Text Amendment as this would impact all properties in the Planned Highway Business Zone; the Town has not had the opportunity to study this proposed amendment comprehensively as it affects other areas of the Town that are also zoned PHB; and the Board does not feel comfortable to ask a private developer do an Environmental Impact Statement based on the discussion; seconded by Board Member Bob Imobersteg. Vote taken:

Chairman Hans Arnold – yes                      Board Member Bob Imobersteg – yes  
Board Member Ellen Rayhill – yes      Board Member Jerome Donovan – yes  
Board Member Peggy Rotton – yes

Motion of recommendation **to not endorse** was passed by a vote of 5 – 0.

Planning Board Secretary Dory Shaw will notify the Town Board.

Board Member Donovan suggested asking the Town Board in their review of the Zoning Law to look at uses in terms of particular corridors.

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**Montessori School, Chapman Road.** Tax Map #340.000-4-7; Lot Size to be used – approximately ½ acres; Zoning: Residential/Agricultural 1. Update. Chairman Arnold stated that Ms. Karen Bradley had contacted the Planning Board Secretary today withdrawing her interest at this site.

## **OTHER**

Chairman Arnold explained to the Board that Murphy Excavating on Chapman Road would be on the February 11, 2008 agenda. They will be appearing at the Zoning Board for a Use Variance at their January 28, 2008 meeting. They want to expand their office space, but it is one of the uses that isn't identified in the Zoning Law. He asked the Town Planner if this would generate more traffic – he said no. The addition will be two (2) stories with approximately 1,020 sf per floor. The use is not in any zoning district in the Town.

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**Wal-Mart Subdivision – Update.** We have been advised by the Town Attorney to not act on this pending the resolution of traffic improvements inside Consumer Square. To not do that could be splitting that access road creating one owner on one side and one on another. We now have a traffic scope of engineering services that the Highway Superintendent and the Town Planner received to do a final evaluation of that and a

recommendation of a fix for that road. Town Planner Schwenzfeier said we are going to be use a part of the retainer from Benderson to pay for it, but that our traffic consultant will look at the existing situation for a long term fix. It would take about six to eight weeks at a maximum to address this.

Chairman Arnold said he was informed that Consumer Square wasn't built according to Final Approval Plans.

**Business Park – Update.** Chairman Arnold said the developer is going forward on the next phase of the Business Park. This would be possibly a hotel/motel and doctor's office. There is a question on the storm water management and connection to the road we required by Lowe's. There is a 1500' gap between Hartford and Lowe's and they are still working on the Woods Highway alignment with Route 840. Chairman Arnold will meet with the Town Planner, the Highway Superintendent and Mr. Adler before the next Planning Board meeting to discuss this.

There being no further business, the meeting adjourned at 7:30 P.M.

Respectfully submitted,

Dolores Shaw  
Secretary/Planning Board

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