

**TOWN OF NEW HARTFORD REGULAR PLANNING BOARD MEETING  
MINUTES OF MONDAY, MAY 11, 2009  
NEW HARTFORD PUBLIC LIBRARY MEETING ROOM  
#2 LIBRARY LANE (OFF OXFORD ROAD), NEW HARTFORD, NEW YORK  
(DOWNSTAIRS-BACK ENTRANCE)**

The Regular Meeting was called to order by Chairman Jerome Donovan at 5:30 P.M. at which time the Pledge of Allegiance was recited. Board Members present were, Ellen Rayhill, Rodger Reynolds, Bob Wood, Peggy Rotton and newly appointed Board Members Julius Fuks and Brymer Humphreys. Also in attendance Town Planner Kurt L. Schwenzfeier, AICP; Codes Enforcement Officer Joseph Booth, and Dory Shaw, Secretary.

\*\*\*\*

Board Members received a copy of the draft minutes of the April 6, 2009 meeting. Motion was made by Board Member Peggy Rotton to approve as written; seconded by Board Member Rodger Reynolds. All in favor.

\*\*\*\*

**\*\*Chairman's Update (as documented by Chairman Jerome Donovan):**

**GEIS** – Some Board Members requested additional time to review the latest draft, as you know this is the second draft; the first was delivered in Jan. 2008 and was rejected by this Board. We had hoped to move the process along to accepting the draft under SEQRA and begin the public comment period, but that will be postponed until members have completed their review and submitted editorial, grammatical corrections. I would emphasize the review has raised no objection in terms of the scope of the report, nor the scenario and related land use recommendations contained therein. I will ask members to conclude their reviews by the end of this week so Kurt can forward a final errata sheet to the consultant. At this point, I don't expect we will receive a "clean copy" prior to our June 8<sup>th</sup> meeting. So, further consideration will be postponed until such time as we receive a corrected copy.

**Business Park/840** -- The Business Park Staff Review Committee (Town Code 118-41.3) met on May 5 with representatives of the NYSDOT, and the developer at the direction of the Town Board to discuss the outlines of a public meeting to share with residents the various alternatives for achieving a break in access from Route 840 into the business park. I participated in the meeting in my capacity as a member of the "review

committee” as established by Town Code. It is in that capacity that I will periodically report to the Board the work of the committee. The NYSDOT requires a public meeting of the alternatives before they will submit any locally endorsed plan to Albany for approval. Locally, NYSDOT’s primary concern is safety. A consultant has been retained, and at the request of the Town Board will compile a list of the access alternatives and their related costs, and possible sources of funding. The presentation will also address the economic impact of the various alternatives and the process going forward. Planning Board members will be interested to learn that two alternatives thus far endorsed by NYSDOT include access via an extension of Clinton Street, commonly referred to as Yager. You will recall that approach was identified in the Clark Patterson Traffic Study this Board initiated while performing the Site Plan Review of the Lowe’s project. A decision by the Town Board is expected after they have received public input. At this point, it is not clear when such a meeting will take place. I’ll keep you posted.

**Sanitary Sewer Consent Order** - Roger Cleveland has accepted my invitation to appear before the Board in the near future to update us on the status of establishing an offset credit bank in compliance with the Consent Order so that sanitary sewer hook-ups that flow to the Sauquoit Creek Pump Station can resume.\*\*

\*\*\*\*\*

**Pet Paradise, 3900 Oneida Street, Washington Mills, New York.** Preliminary/Final Site Plan Review of a proposed facility to provide care to pets during the day. The facility will also offer short term boarding and obedience training. Tax Map #339.016-1-48.1; Total Lot Size: 1.6 Acres (using about 18,000 sf in building); Zoning: Retail Business 2. Ms. Candice Hobin appeared before the Board.

Oneida County Planning 239 was received with no adverse comments, but had suggested the Planning Board get the hours of operation. The Town Planner stated this is a proposed re-use of an existing facility for short-term boarding and dog obedience training. The dog runs are located in the back of the facility along with the parking. Oneida County DPW (239K) sent their reply stating they did not need to address this application (both Oneida County 239 and 239K are made a part of the file).

Ms. Hobin stated that the hours of operation will be 7:00 AM to 7:00 PM Monday through Friday. However, the dogs that are boarded would be there 24/7.

At this time, motion was made by Board Member Peggy Rotton to grant Final Site Plan Approval based on the plan submitted by Dennis L. Mowers, P.L.S. #49369 and dated 3/31/09; seconded by Board Member Bob Wood. Vote taken:

Chairman Jerome Donovan – yes

Board Member Peggy Rotton- yes

Board Member Bob Wood – yes                      Board Member Ellen Rayhill – yes  
Board Member Rodger Reynolds – yes           Board Member Julius Fuks – yes  
Board Member G. Brymer Humphreys – yes

Motion **approved** by a vote of 7 – 0.

\*\*\*\*

**Roger’s Car Wash, 8477 Seneca Turnpike, New Hartford, New York.** Amendment to Final Site Plan Review – Mr. Roger Griffith would like to sell automobile from this site, which is now Roger’s Car Wash. Zoning permits the sale of automobiles under Site Plan Review. Tax Map #328.011-1-17; Lot Size: 0.76 Acres; Zoning: Retail Business 1. Mr. Griffith appeared before the Zoning Board of Appeals on April 20,2009 for a parking lot Area Variance, which was granted approval. Mr. Roger Griffith appeared before the Board.

Mr. Griffith had received Zoning Board of Appeals approval on April 20, 2009 for the requested Area Variances for the purpose of placing a parking lot less than the required 10’ setback from the rear and side property lines in a Retail Business 1 zone (copies of the minutes were forwarded to the Planning Board members). Town Planner Schwenzfeier said because he wanted to change part of his existing use to include automobile sales, it needed to have variances granted based on the proximity of parking.

Town Planner Schwenzfeier stated there is a Pre-development Agreement and Memorandum of Understanding but it won’t change because he is in a GEIS area.

There being no further discussion, motion was made by Board Member Rodger Reynolds to grant Amendment to Final for Mr. Griffith based on the Site Plan dated 1/13/09; seconded by Board Member G. Brymer Humphreys. Vote taken:

Chairman Jerome Donovan – yes                      Board Member Peggy Rotton- yes  
Board Member Bob Wood – yes                      Board Member Ellen Rayhill – yes  
Board Member Rodger Reynolds – yes           Board Member Julius Fuks – yes  
Board Member G. Brymer Humphreys – yes

Motion **approved** by a vote of 7 – 0.

\*\*\*\*

**Special Metals, Middle Settlement Road, New Hartford, New York.** Preliminary/Final Site Plan Review of a proposed 864 square foot addition to the existing furnace pump house. Tax Map #328.000-2-25; Lot Size: entire parcel is 110 acres (this

project is 864 sf). Zoning: Manufacturing. Mr. Dale Meszler of Almy & Associates, appeared before the Board.

Town Planner Schwenzfeier stated that Oneida County Planning 239 was received without comments. The actual addition is to the rear of the facility and can't be seen from Middle Settlement Road or Seneca Turnpike as there is vegetation behind this facility. The project will need a Pre-development Agreement and Memorandum of Understanding and those fees will be determined based on new and impervious surface. He further stated that the actual amount of a change is less than 1%.

Board Member Peggy Rotton asked the Town Planner to have the Site Plan Review application completed in its entirety – this will be done. Town Planner Schwenzfeier stated he would make sure this is completed before any applicant comes to the Planning Board.

Motion was made by Board Member Peggy Rotton to grant Preliminary and Final Site Plan Approval based on the map submitted by Almy & Associates Consulting Engineers, dated April 9, 2009; seconded by Board Member Bob Wood. Vote taken:

Chairman Jerome Donovan – yes	Board Member Peggy Rotton- yes
Board Member Bob Wood – yes	Board Member Ellen Rayhill – yes
Board Member Rodger Reynolds – yes	Board Member Julius Fuks – yes
Board Member G. Brymer Humphreys – yes	

Motion **approved** by a vote of 7 – 0.

\*\*\*\*

\*Report from Chairman Donovan regarding 1) Appointment of Vice-Chairman: Following the practice of former Chairmen who have recommended Vice Chairs based on Board seniority, I shall ask you to support my nomination of Bob Wood as Vice Chairman this evening. Bob is the longest serving member of the Board; he is in his second term, having served 13 years. I have discussed this with Bob and he is agreeable to serving out the remainder of the year in this capacity.

The Chairman's post and the Vice Chairman's posts expire in December. The Town Board annually appoints the Chairman and under our Rules and Procedures, the Planning Board will elect a Vice Chair in January of each year. Chairman Donovan asked if there are any questions.\*

There being no further discussion, Board Member Ellen Rayhill nominated Bob Wood as Vice-chairman to the Planning Board; seconded by Board Member Rodger Reynolds. All in favor.

\*2) Fessia property subdivision, 11 Liberty Avenue. Staff has requested to address this on the agenda as this is now a legal non-conforming lot. The land sale of 15' x 75' from Mr. LaPorte to Mr. Fessia is being done so that Mr. Fessia's home can exist entirely on its own parcel and will remain a legal non-conforming lot. Nothing has changed. The Planning Board's role in this matter is simply to facilitate the sale by carrying out our minor subdivision review. In the past, such situations have been handled by Staff in consultant with the Chair. (It shall be the Chairman's practice to bring all such matters before the Board in the future).\*

Codes Enforcement Officer Booth appeared before the Board stating that Mr. Fessia's home sets on Mr. LaPorte's property. Mr. LaPorte is only willing to sell the 15' x 75' strip of land to Mr. Fessia. Mr. LaPorte's lot is still a legal non-conforming lot as is Fessia's. The Fessia house exists within 10' of the front property line and Mr. LaPorte's is right on the front line. This lot line adjustment just makes a bad situation better. It will also facilitate any future sale of this house.

Mr. Booth continued stating that both lots are legal non-conforming lots and are not being represented as anything else.

Chairman Donovan supports recommendation to grant the minor subdivision and the sale of this 15' x 75' piece of property to be taken from Mr. LaPorte and added to Mr. Fessia. This would have ordinarily been done by Staff and they would have considered this a lot line adjustment, but it is before this Board for review at this time.

At this time, motion was made by Board Member Peggy Rotton to approve the legal non-conforming lot of Mr. Fessia at 11 Liberty Avenue and the lot be adjusted with the addition of the 15' x 75' of property that is being sold by Mr. LaPorte to Mr. Fessia.(the minor subdivision of 15' x 75' to be combined from one lot to another); and based on the minor subdivision map dated April 24, 2009 – plot plan by Richard K. Bartholomew, LLS; seconded by Board Member Bob Wood.

Noted: It was stated that John Meagher, Senior Engineer, reviewed the deed descriptions and they are in order. Also stated was that the Town Attorney had reviewed this application and advised Staff to appear before this Board.

Vote taken:

Chairman Jerome Donovan – yes

Board Member Peggy Rotton- yes

Board Member Bob Wood – yes                      Board Member Ellen Rayhill – yes  
Board Member Rodger Reynolds – yes              Board Member Julius Fuks – yes  
Board Member G. Brymer Humphreys – yes

Motion **approved** by a vote of 7 – 0.

\*3) Dr. Albert Shaheen requested that he and other interested residents be granted permission to address the Board pertaining to the GEIS. Chairman Donovan explained to Dr. Shaheen that there is no standing for residents to be heard at Planning Board meetings. On the other hand, residents are given the opportunity pursuant to state law to address the Board at public hearings.

Chairman Donovan explained further in writing, through his attorney, Mr. Richard Wolfe, and in a previous telephone conversation while Dr. Shaheen was in Florida in April, that SEQRA requires a written public comment period before the Planning Board can consider a final GEIS, and that the Planning Board has opted to also conduct a public hearing, although not required to do so.

In the interim, the Planning Board has received letters from Dr. Shaheen's attorney(s) (Mr. Wolfe and Mr. Julian) expressing their client's opinions relative to recommendation contained in the draft GEIS. Those letters are part of the file and have been shared with members.

Although the study falls within the purview of this Board, Dr. Shaheen and Dr. Rao addressed the Town Board last week on this topic. The record of that meeting will be shared with the Planning Board as soon as the Town Board approves the minutes of that meeting.

Notwithstanding the aforementioned, Chairman Donovan has advised Dr. Shaheen in a telephone conversation this morning that he would recommend to the Board that a spokesperson be granted three (3) minutes to make a statement. As stated before, the Planning Board has written submission outlining Dr. Shaheen's and other parties interests and concerns.

So, without objection, Chairman Donovan now recognized Dr. Shaheen for the purpose of making a statement as previously agreed. This will not be followed by a discussion or question period, as the Planning Board has, to date, conducted three (3) public workshops on the study with the consultant, who is not here this evening, and as noted earlier will conduct a public hearing prior to taking any further consideration on the study.

Thereafter, the meeting will be adjourned after Dr. Shaheen's remarks, as there is no further business to come before the Board tonight.\*

Dr. Shaheen addressed the Board as a spokesperson for himself and others with concerns regarding the proposed GEIS for the southern area of the Town. He owns a significant amount of land in the Sherman Hills area. He cannot find fault generally with the Town of New Hartford instituting the study, but he referred to the decline in population in the Town –there are no significant houses being built, farmland is suffering. He can afford to maintain his land but there are others who can't – he doesn't want to sell at this time. He is concerned about his children being able to maintain and afford the property. He feels a minimum of five-acre subdivision would be difficult – how do you maintain this much land. It has been noted about the high cost of living in New Hartford. People just can't buy expensive lots. Affordable housing: how does this happen if New Hartford puts restrictions that mandate oversize lots – it doesn't make sense to him and others. He referred to the loss of school revenue, and also referred to a development that started 15 years ago and who is just beginning to see a return. He can't see an overwhelming amount of traffic and flooding if there is no significant growth. There is no other town around us that has restrictions on minimal lot sizes. Further, he feels only the rich could afford five acre lots. Even with one acre lots, he feels there aren't many developments in New Hartford with one acre lots – he referred to different residential zones in New Hartford and lot requirements – none with five acres.

As far as sewer and water runoff, Dr. Rao gave a presentation to the Town Board on what can be done with green building techniques. Dr. Shaheen feels we need to be reasonable, practical and have something that works. He has talked to developers in the Town who feel this restriction is unreachable.

Chairman Donovan stated he has the documentation that has been presented to him, and there will be ample time for every affected landowner to provide written comments on any draft plan that this Board may adopt, and there will be a public hearing. Chairman Donovan referred to the number of times this Board has spent with workshops, meetings and consultations with the consultant. He cannot speak for the other Board Members, but for the past 24 months we have worked extensively on this. We look forward to a public record to be developed before any action on a final. This project is part of a planning function – it is a planning document. There are a lot of recommendations contained in this document. This Board implements none of them. That authority rests with the Town Board. What we might recommend to the Town Board they would have to consider, and conduct a public hearing or maybe additional studies. People can also have their own engineers submit information to the Town Board.

Town of New Hartford  
Planning Board Minutes  
May 11, 2009  
Page 8

Dr. Shaheen mentioned that he feels this Board will have significant influence and impact on the Town Board's decision. He feels the main issue is to keep the lot sizes something livable and that will work with everybody.

Chairman Donovan thanked Dr. Shaheen for his comments and representation of others in the room and again explained procedures for conducting a meeting, i.e., submittal of applications, time frames, etc. Dr. Shaheen thanked the Board for their time.

\*\*\*\*

There being no further business, the meeting adjourned at 6:20 P.M.

Respectfully submitted,

Dolores Shaw  
Secretary/Planning Board

dbS