

**TOWN OF NEW HARTFORD REGULAR PLANNING BOARD MEETING
MINUTES OF MONDAY, OCTOBER 19, 2009 NEW HARTFORD PUBLIC
LIBRARY, #2 LIBRARY LANE NEW HARTFORD, NEW YORK**

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 Bob Wood, Julius Fuks, Ellen Rayhill (arrived at 5:35 PM), Peggy Rotton and Brymer Humphreys. Also in attendance was Town Planner Kurt L. Schwenzfeier, AICP; Town Engineer John Meagher; and Dory Shaw, Secretary.

Board Members received a copy of the draft minutes of the special meeting held on September 29, 2009. Motion was made by Board Member Brymer Humphreys to approve these minutes as written; seconded by Board Member Peggy Rotton. All in favor.

Chairman Donovan updated the Board in reference to the \$75,000 for zoning related work for the 2010 budget. He has learned this amount has been reduced to \$42,000. Chairman Donovan stated, in his opinion, that this would curtail this vital work. It was stated to him that additional funding might be available in the 2011 capital budget. Without funding we can't get the professional help we need.

Update on DGEIS: although not on the agenda, this will be discussed later this evening.

Schedule Public Hearing for **Upstate Cellular** for proposed 100' monopole and accessory structure at 8639 Seneca Turnpike; Zoning: PDREC. Attorney Scott Olson was in attendance. The next Planning Board meeting is scheduled for Monday, November 9, 2009 and a Public Hearing could be held at that time for this application. Motion was made by Board Member Peggy Rotton to schedule the Public Hearing for Upstate Cellular for the proposed 100' monopole and accessory structure; seconded by Board Member Brymer Humphreys. All in favor.

Chairman Donovan asked Attorney Olson to have the applicant (**Upstate Cellular dba Verizon Wireless**) do a power point presentation and to have a representative from the Yahnundasis Golf Club in attendance. A copy of any resolution or lease adopted by the Board of Directors of the Yahnundasis should also be submitted. There was a question in the Town Code language regarding the fall zone. The Town Attorney rendered his

opinion and it has been shared with the applicant. Attorney Olson asked permission to speak with the Town Attorney to discuss this issue with him. Chairman Donovan stated there was no objection.

Valmanvar Corporation: minor 3-lot subdivision on **Pebble Creek Lane, New Hartford.** Tax Map #340.003-1-64; Zoning: Low Density Residential. Mr. Jerry Back, one of the principal owners, appeared before the Board.

Chairman Donovan explained that one parcel of 1.7 acres is unbuildable and proposed to be deeded to the Town for storm water purposes. Chairman Donovan has asked the Town Planner, Codes Officer and Town Engineer to address the storm water feasibility/value on this lot before any recommendation to the Town Board. This will be presented to the Town Attorney and Town Board with the comments from Staff.

Mr. Back said this minor subdivision is part of the original Higby Hills project. All they want to do is break off three lots, which are all over 1 ½ acres with the 4th lot as a retention basin and a turn-around for a Town road at the end.

Chairman Donovan asked Town Engineer John Meagher if he had any comments – Mr. Meagher said not at this time. Mr. Back stated that there is a Town easement for the culvert right now but it is part of a larger easement. There is already a catch basin and all the infrastructure is in.

Discussion ensued regarding the ravine and its relation to Heron Landing. Mr. Back explained the ravine location and the culvert. Board Member Rotton is concerned about water runoff. It was stated there is a retention pond. The ravine comes from Mohawk Street and goes through the development to a 60” culvert. The ravine ends up in Washington Mills. This storm water has been designed by engineers and they aren’t going to increase any additional water runoff.

Chairman Donovan stated this is an Unlisted Action under SEQR and we need to declare Lead Agency and send out for County 239.

Board Member Fuks stated that this is going out for review and he had a concern about the numbers shown on the map – he would like them clarified so there is no confusion at the review level. Mr. Back said to call it an out-lot and indicate it that way. It will be shown as such.

Chairman Donovan asked the Town Engineer to review the map before it is sent out. Motion was made by Board Member Ellen Rayhill to declare the Planning Board Lead Agency; seconded by Board Member Brymer Humphreys. Vote taken:

Chairman Jerome Donovan – yes	Board Member Ellen Rayhill – yes
Board Member Brymer Humphreys – yes	Board Member Julius Fuks – yes
Board Member Bob Wood – yes	Board Member Peggy Rotton – yes

Motion **approved** by a vote of 6 – 0.

Motion was made by Board Member Peggy Rotton to grant conceptual approval; seconded by Board Member Brymer Humphreys. Vote taken:

Chairman Jerome Donovan – yes	Board Member Ellen Rayhill – yes
Board Member Brymer Humphreys – yes	Board Member Julius Fuks – yes
Board Member Bob Wood – yes	Board Member Peggy Rotton – yes

Motion **approved** by a vote of 6 – 0.

Faxton-St. Luke’s Hospital, 1705 Burrstone Road, New Hartford (former Bushinger Flowers building). Amendment to Final Approval. Changed from administration offices to classroom/faculty office. Tax Map #317.000-2-23; Lot Size: 1.25 Acres; Zoning: Planned Highway Business. Ms. Sharon Palmer

Chairman Donovan explained that Faxton-St. Luke’s received Final Approval on April 4, 2009 for administrative offices at this site. This is an Amendment to Final for a change in use from administrative offices to a classroom and faculty office. At that time they were asked to remove the sign in the right-of-way and to update the plantings (which Ms. Palmer said the sign is removed and some landscaping done). The renovations were never done. Ms. Palmer said they are committed to do the parking as originally approved – this is just a change in use – no change to the interior.

Discussion ensued regarding the busy intersection and safety of students crossing and whether sidewalks are available. Ms. Palmer said all the students are adults and they drive– the faculty members drive also. There are 15 students; the hours of operation are Monday thru Friday, 8 – 4 – one classroom and four faculty offices. Total parking is 17 spaces – ten spaces on the side, one handicap, and six in the front. Ms. Palmer said she spoke with the Codes Officer and parking was acceptable with what he reviewed, however, more parking could be added (Fast Trak is adjacent to this property and also owned by the Bushinger’s). The Town Planner read from the Code that one parking

space per 12 classroom seats or 1 parking space for 3 auditorium seats – the Code doesn't make a distinction.

It was mentioned that students are there all day and faculty would be staggered – on an average there would be 17-18 people there.

Chairman Donovan said the applicant needs to show a completed parking plan. This application will be sent to County 239 Planning, NYSDOT, and NH Police Department for their comments.

Board Member Rotton would like to see some cosmetic landscaping done at the site, additional landscaping. This can be a condition to Final Approval. She would also like comments from the Police Chief about crossing the street. Board Member Fuks said NYSDOT would be able to address the road situation, traffic, etc. in their review.

Chairman Donovan asked about snow removal and Ms. Palmer said there is plenty of room for this.

Chairman Donovan will ask the Town Planner, Town Engineer and Codes Officer to look at this application again. Ms. Palmer will be in touch with Staff for the property submittals to be sent to the agencies mentioned.

St. Elizabeth Hospital, 4401 Middle Settlement Road, New Hartford (former Hartford Insurance building). Conceptual Site Plan Review for renovations and reconfiguration of driveway. Tax Map #328.000-2-38; Total lot Size: 40 Acres; Zoning: Planned Development Institutional. Mr. William Koch of Alesia & Crewell Architects and Mr. Bob Scholefield, VP/St. Elizabeth Medical Center, appeared before the Board.

Chairman Donovan stated this is an Unlisted Action under SEQR and we need to declare Lead Agency.

Mr. Koch presented information to the Board Members which indicated the scope of exterior work, to name a few, removal of landscaping, addition and removal of sidewalks, lighting, grading changes, addition, etc. at the north entrance, west entrance, and oxygen supply source (this has been made a part of the file). Mr. Scholefield explained why these changes are necessary. He stated St. Elizabeth took ownership in January 2009 of this building. They have been issued a Building Permit for the interior work and will be doing some changes to the exterior. He also stated they need to be compliant with ADA (Americans with Disabilities Act) standards. He referred to the construction of an 1100 sf lobby entrance which would include a drive up for patients; handicap parking will

be installed also. There is also a plan to put an entryway to the back of the building – an existing sidewalk is there and a new one will be put in.

Mr. Scholefield referred to the east side of the building for a proposed oxygen storage tank. He provided drawings or what it would look like (and which has been made a part of the file). Their plan is to take out the embankment so anyone driving by won't see it – the tank won't be totally screened unless otherwise stated by this Board.

Chairman Donovan asked if there are any changes in parking spaces – Mr. Scholefield said no because of the roadway change; there is some green space taken out, but taking away some parking spaces on the north side so as not to lose any green space. Board Member Bob Wood addressed the taking of trees on the west side – Mr. Scholefield said this area will be seeded after removal of trees.

Chairman Donovan addressed the mix of patients coming in and out of this facility and how speed may be a factor although it is mitigated by turning lanes – we will look to NYSDOT for their input.

Board Members Wood and Rotton asked to see a planting plan with this submittal - with no trees there isn't a wind break and the removal of 22 trees with ten left isn't what they want to see.

Chairman Donovan mentioned that this is at a conceptual stage and would be sent out to the Involved Agencies as directed by the Town Planner. Mr. Scholefield was unaware of the continuing review of this project as he thought he could get Final Approval this evening. Chairman Donovan explained the procedure for Site Plan Review and we can't segment it. Assuming there are no issues with the Involved Agencies, this application could be on the November 9th agenda.

Board Member Fuks referred to the oxygen tank and if there were any health standards for this. Mr. Koch said there are regulations for this type of equipment. He said this meets all requirements and there is a chain link fence around the apparatus. Board Member Fuks' primary concern would be safety and some type of bollards – the tank is filled with an oxygen truck with a hose. Oxygen burns a little but, and this is a concern. It was mentioned that the Codes Officer look at the elevation of this proposed tank.

At this time, motion was made by Board Member Peggy Rotton to declare the Planning Board Lead Agency; seconded by Board Member Brymer Humphreys. Vote taken:

Chairman Jerome Donovan – yes	Board Member Ellen Rayhill – yes
Board Member Brymer Humphreys – yes	Board Member Julius Fuks – yes

Board Member Bob Wood – yes

Board Member Peggy Rotton – yes

Motion **approved** by a vote of 6 – 0.

Chairman Donovan asked the Town Planner, Town Engineer and Codes Officer to review the site plan and planting plan and if they have any concerns or outstanding issues, to contact the applicant before it goes out to the Involved Agencies.

Plantation 22, LLC, 4396 Middle Settlement Road, New Hartford (across from the former Hartford Insurance building). Conceptual Site Plan Review for a proposed dentist office. Tax Map #328.000-2-55.2; Lot Size: 1.66 Acres; Zoning: RB3. Dr. & Mrs. Timothy Pfister, and Mr. Donald D. Ehre, P.E., appeared before the Board. (This is a non-conforming house).

Chairman Donovan stated this is an Unlisted Action under SEQR and we need to declare Lead Agency.

This is a 1.66+ acre parcel that has a single family home that consists of 1,179 sf and one barn consisting of 936 sf. The proposal is to construct a 3,963 sf building for Dr. Pfister's dental business and this office will have 12 chairs. They propose to have 30 parking spaces and a new driveway configuration. This number of parking was discussed with Staff.

Mr. Ehre presented a photo of the property with structures. The barn will remain for the doctor's vehicles, and at this time they propose to keep the existing home for their use or rent. There aren't many trees on the property and they intend to keep what is there. Around the perimeter is green space. They propose trees and bushes and have shown it on the plan, but have not indicated the type of trees, etc. at this time in the event the Planning Board wants something different. The driveway entrance onto the site will have to be worked out with NYSDOT. It will have the proper curves and proper entrance.

Mr. Ehre was asked if the curb to the barn would be eliminated – Mr. Ehre said yes. Right now there is a driveway to the barn and house. Mr. Ehre was also asked, if the house were to be sold, screening would be addressed but at this time they do not plan to sell it.

Motion was made by Board Member Peggy Rotton to declare the Planning Board as Lead Agency; seconded by Board Member Bob Wood. Vote taken:

Chairman Jerome Donovan – yes

Board Member Ellen Rayhill – yes

Board Member Brymer Humphreys – yes Board Member Julius Fuks – yes
Board Member Bob Wood – yes Board Member Peggy Rotton – yes

Motion **approved** by a vote of 6 – 0.

Motion was made by Board Member Bob Wood to grant Conceptual Approval; seconded by Board Member Brymer Humphreys. Vote taken:

Chairman Jerome Donovan – yes Board Member Ellen Rayhill – yes
Board Member Brymer Humphreys – yes Board Member Julius Fuks – yes
Board Member Bob Wood – yes Board Member Peggy Rotton – yes

Motion **approved** by a vote of 6 – 0.

This will be sent out to Involved Agencies with application and correspondence submitted.

Update: Jewel Ridge, Phase II. Mr. Gregg Grates appeared before the Board. Phase II consists of eleven lots and was last seen before the Planning Board about three years ago. The delay in approvals is due to the DEC Consent Order and deficiencies noticed by Staff. Phase I had seven homes approved after that phase had a Public Hearing (Final Approval granted 6/12/06 by this Board). This is an update of the status of sewer credits also.

The Town Planner stated that Mr. Grates came before the Town Board so that he was able to get additional Building Permits for Phase I and due to some outstanding issues. Based on that, the applicant provided a retainer of \$330,000 for outstanding site work to the Town identified by Donald Ehre, P.E. on July 9, 2008. He also provided the Town with \$1171 for testing on core samples. One of the issues was until all deficiencies are done, no C/O's could be granted to the applicant. Those are the outstanding issues for Phase I. Phase I was grandfathered in regarding sewer credits.

Town Planner Schwenzfeier continued stating that at this time he has two Building Permits outstanding with no C/O's. One house does have a C/O.

The Town Planner stated this Phase II is under purchase contract; access to the proposed subdivision will be from the new roadway constructed for Jewel Ridge, which is to be dedicated to the Town.

This Phase II has approximately 8 acres between New Hartford School property and the Jewel Ridge subdivision. This is for eleven lots, each having 18,000 sf along a proposed cul-de-sac and internal roadway. An additional lot will be created through the elimination of the cul-de-sac proposed on the previously approved plan. This also includes extension of public water, sanitary sewer, road right-of-way and proposed easements. The last time this was before the Planning Board was 11/24/08 – no action taken at that time – sewer credits is an issue.

The area of the roadway and utility easements will be cleared and graded as shown. Storm drainage pipes and catch basins are proposed along the new roadway. Drainage collected and treated prior to discharge.

At this time, the applicant has applied for those sewer credits. Town Engineer John Meagher said he is still waiting for the County to reply. Chairman Donovan asked, as soon as the County certifies the credits to the Town, where does that leave us? What has to happen to get this to proceed to start looking at Phase II. Phase I changes are administrative in nature and not before this Board.

Mr. Grates said he can't move forward with Phase I without Phase II being approved – everything is contingent – utilities, infrastructure, etc. We are down to a punch list as far as he can go with Phase I.

Chairman Donovan asked who is responsible for the punch list – Town Engineer Meagher said he is. He agrees with Mr. Grates as far as the punch list. There are other issues and Mr. Grates is aware of those.

Town Engineer Meagher said there are some issues with storm water problems as it relates to Christopher Circle which will be taken care of through the punch list, but we want to make sure the residents of Christopher Circle are happy as work goes along.

Chairman Donovan stated that Phase II needs a Public Hearing. The Town Planner said SEQR was done on 6/11/07. This Board did not grant Conceptual Approval.

Board Member Fuks asked, the punch list was under Phase I and that has not been completed yet – the Town Planner said yes. Board Member Fuks doesn't know what the punch list is and what needs to be addressed. This obviously needs other work to be done. It wouldn't be fair to go either way with this because he just received this and doesn't have enough information. It was stated that Staff would contact him regarding this.

The applicant and the Town Engineer seem to agree but that has to be resolved before they come back. Staff will work with the applicant. We aren't going to piecemeal this.

Chairman Donovan asked if we have to have some kind of amendment of Phase I because of the cul-de-sac – the Town Planner said no because Phase II supersedes the original subdivision.

Mr. Grates addressed the Board and he stated they put up a bond. There is no liability to the Town. He was under the assumption that the sewer credits issue was resolved. He feels he has been held up with the progress of his development.

Chairman Donovan stated that no decisions will be made tonight and this Planning Board has not been holding up anything – it is the DEC consent order that is the issue. He explained that they have to get this plan back before this Board (we have several new Board Members who need to be updated). Chairman Donovan doesn't know if the plan has been changed. The Town Planner said it is identical as far as he knows. Depending on Staff review, this may be on the November 9th agenda. Town Engineer Meagher wants to see what was exactly was sent to DEC

Mr. Grates said that they are not going to move forward with the walkway with the school as it was felt it would be a liability.

The Town Planner said he will provide the new members with Phase I and the punch list for Phase II. Mr. Grates will provide additional copies for the new members if necessary.

Staff was advised to 1) get all paperwork taken care of; 2) this Board schedule a Public Hearing; 3) between now and then, the applicant is to work with Staff with the original plan presented to this Board for Phase II.

Chairman Donovan asked the Board Members to consider another meeting on November 23rd – just tentative at this time.

Chairman Donovan referred to Ms. Eve Holberg's (peter j. smith consulting) request regarding proposed language changes on the DGEIS. She needs feedback from this Board before an appendix and FGEIS can be completed. An appendix could be available shortly provided we give direction on the proposed language. The Final could be received in late November.

The Board Members discussed this in detail. Board Member Fuks would like a copy of the draft done by the Court Stenographer.

Board Member Rayhill would like to know what the things are that Ms. Holberg is describing and are we going to have an opportunity to look at the corrected copy. She also referred to density vs. minimal lot size – these documents will be cleaned. Chairman Donovan said that as he understands it, once we give them further direction then they can respond to the Public Hearing testimony using some of this as a basis to the response. That will be the appendix to the final GEIS. Therefore, if we get this to them ASAP, he was told we can get the appendix by next week and then review it. Chairman Donovan is committed to this process and document. He feels it is what we want this community to look like 20 years from now. The primary thrust of the recommendation is the same – preserve open space, protect farm lands, etc.

Board Members Rotton and Rayhill expressed the importance of addressing water run off and what was discussed at the public meetings by so many people. Board Member Fuks also felt our goal is to address the concerns during the public comment period. He addressed the concerns of the public, especially regarding five-acre lot sizes. The comments from the consultant goes a long way to address those concerns that the public raised. To do these elements addresses what we hope to present to the Town Board as a guide to future. If we can accomplish this, it is the way to go and feels this can be done with this document.

It was the consensus of the Board Members that this document should proceed without delay.

Chairman Donovan stated that the Town Board has to implement it, but we want something to send to them to get support – there is nothing that we aren't doing that we haven't been charged to do, and it is consistent with the Comprehensive Plan update. The Town Board gave us this charge to do this document.

Discussion ensued regarding the Chairman contacting the consultant to convey what we discussed and that we are in accordance with the recommendations submitted by Ms. Holberg. Also discussed were possible tax incentives as a possible solution; economic development PILOT programs.

Town Planner Schwenzfeier updated the Board on the status of the \$25,000 State Ag Preservation Grant. He said the Town Board has not put the required \$1667 match cash required in the preliminary budget for 2010.

The fate of the grant depends on the match requirement by the Town Board.

Town Planner Schwenzfeier addressed the Board. He stated that NYSDOT is going to be moving forward to fixing the traffic signal at Consumer Square – not fixing the alignment issue but at least get through the shopping season to get the traffic signal working properly (this is the signal on the property).

He also stated that (tentatively as of tonight's meeting), on November 7, 2009 a public meeting will be held regarding the break-in-access on Route 840 and Woods Highway Extension. Nothing has been done regarding place and time but he will advise the Board accordingly.

Also, he stated that on November 5, 2009 there will be a Public Hearing at the Town Board meeting at 6:00 P.M. on the proposed 2010 Town budget.

Planning Board vacancy: Motion was made by Board Member Peggy Rotton at 7:50 P.M. to go into Executive Session to address a personnel issue; seconded by Board Member Bob Wood. All in favor.

The Board came out of Executive Session at 8:01 P.M. with the regular meeting reconvening at 8:01 P.M.

Motion was made by Board Member Peggy Rotton to recommend to the Town Board Elisabetta DeGironimo, 91 Hartford Terrace, New Hartford to fill the unexpired term of Rodger Reynolds ending December 31, 2010. Vote taken:

Chairman Jerome Donovan – *abstained	Board Member Ellen Rayhill – yes
Board Member Brymer Humphreys – yes	Board Member Julius Fuks – yes
Board Member Bob Wood – yes	Board Member Peggy Rotton – yes

Motion **approved** by a vote of 5 – 0 with one abstention.

*Chairman Donovan noted his abstention is without prejudice to the nominee based on the following:

Donovan cited a number of reasons why the Town Board should review the policy:

- Mandated village representation on the Planning Board was predicated on villages dissolving their boards in favor of a joint (town-wide) Planning Board or entering into an inter-municipal agreement similar to what the Town has done with Codes Enforcement with the Village of New Hartford. Consolidation was supposed to have been discussed in 1996 after the adoption of the village appointment mandate.
- Villages are not required to have Planning Boards. Consolidation of such services should be vigorously pursued in light of rising real property tax levies.
- Village residents don't contribute to the support of the Planning Board or the Planning Department's operating budget.
- Village representatives have twice the weighted voting power of other Board Members.
- There is no reciprocal appointment for a Town resident to Village Planning Boards.
- The mandate limits the Planning Board's ability to recommend residents with the background and experience most needed and appears to substitute parochial considerations.

He also cited Whitestown, a town with four villages and no such requirement, and questioned the rationale for New Hartford keeping the status quo.

There being no further business, the meeting adjourned at 8:10 P.M.

Respectfully submitted,

Dolores Shaw
Secretary/Planning Board

dbb