

**MINUTES OF THE REGULAR PLANNING BOARD MEETING
MONDAY, JUNE 28, 2010
NEW HARTFORD PUBLIC LIBRARY
#2 LIBRARY LANE NEW HARTFORD, NEW YORK**

The Regular Meeting was called to order by Chairman Elis DeLia at 5:30 P.M. at which time the Pledge of Allegiance was recited. Board Members present were Jerome Donovan, Bob Wood, Ellen Rayhill, Peggy Rotton, Brymer Humphreys, and Elisabetta DeGironimo. Also in attendance were Town Supervisor Patrick Tyksinski, Asst. Town Supervisor Matthew Bohn, Town Attorney Herbert Cully, Town Engineer John Meagher; Codes Officer Joseph Booth., and Secretary Dory Shaw.

Board Members received a copy of the draft minutes of the regular meeting held on April 12, 2010. Motion was made by Board Member Brymer Humphreys to approve these minutes as written; seconded by Board Member Elisabetta DeGironimo. All in favor.

Mr. Steve Pacheco, Irvin Avenue; Preliminary Review of 5-Lot Major Subdivision of Mobile Home Park. Tax Map #349.008-2-24; Lot Size: .74 Acres; Zoning: Planned Development Mobile Home. Messrs. Alex Forte and Paul Mancuso of Octagon Engineering appeared before the Board.

Codes Officer Booth explained that this is a 5-lot Major Subdivision, which was previously proposed as six (6) lots. All five (5) lots exceed the minimum requirement for mobile homes. He and Town Engineer Meagher reviewed this proposal. There were some homes bordering the subdivision lines and those homes have been removed. The only two (2) homes left are legal non-conforming homes and can stay there until the owner decides to move them. He stated that Staff recommends sending this out to the Involved Agencies for their review.

Board Member DeGironimo questioned the SEQR application, in particular Page 5 where dimensions are shown for 22' in height and 42' length, and whether two-story homes are being proposed. Mr. Mancuso said these dimensions are inaccurate and would be modified – there are no two-story buildings. These are HUD homes and all one-story.

Codes Officer Booth stated that at the time of obtaining a Building Permit, this would show the correct dimensions.

Chairman DeLia reiterated that whatever goes on the pad Codes Officer Booth will be reviewing it at the time of the permit.

Motion was made by Board Member Jerome Donovan to grant Preliminary Approval based on the plan presented this evening and dated 6/16/10; seconded by Board Member Peggy Rotton. All in favor.

At this time, motion was made by Board Member Jerome Donovan for the Planning Board to be Lead Agency; seconded by Board Member Brymer Humphreys. All in favor.

Mr. Larry Adler, Hampton Inn, Woods Highway. Conceptual/Preliminary Site Plan Review of a proposed hotel. Tax Map #328.000-3-7.1; Lot size: approximately 3.4 Acres; Zoning: Planned Development Park. Mr. Larry Adler and Mr. James Emerick of Napierala Consulting appeared before the Board.

Mr. Emerick gave a brief overview of the location of this project. It is located at the intersection of Woods Park Drive and road B. This is a three-story, 87 room hotel, approximately 21,500 square feet, on a proposed parcel of 3.4 acres. They provided parking relevant to the size of the hotel, and storm water mitigation for this project.

Codes Officer Booth stated that Staff has reviewed this in conjunction with the PDP criteria. He referred to a few comments:

- Floor to air ratio – they exceeded 3 to 1
- Site area is not good standing for 3.4 acres
- Height of the building is not a good shape
- Discrepancy: 117' of frontage and this zone recommends 300'
- Parking spaces calculated don't take into consideration swim area of the pool
- Lighting: the foot candles were excessive – maximum foot candle of .05 – he can't imagine any more than that.
- Franchise described monument signage of 50 square feet – Code limits it to 32'. It is within the height requirements
- Buffer strip recommended along the National Grid Power Station and right-of-way that hasn't been included.
- Minimum and maximum setback exceeded for this zone – between 30' – 50' – he would like to see the setback.

Other than these comments, Mr. Adler has complied with requirements to supply all the necessary information.

Town Attorney Cully referred to the setback. Codes Officer Booth said the front setback stipulates a minimum and maximum, which is the 30' to 50'. Mr. Adler is showing future office space in the front area which would be the frontage area. He feels this Board needs to look at this situation as it is a prohibition of parking in the front yards also.

Chairman DeLia asked the Town Attorney to elaborate. Town Attorney Cully said this Board has discretion under Title 118. It does indicate however that the regulations for this park apply uniformly throughout the district. We do have uniform guidelines that have been set. Under Section 118-39 it comes before this Board for a Site Plan Review. The Town Planning Board will evaluate the quality of the design objectives of the park. Also, the Planning Board has full authority to approve with modification or disapprove, etc. District standards are under Section

118-39. In the previous version of this, there was a section that discussed exceptions and modifications specifically that each project is unique and that modifications would be permitted when reviewed by the Planning Board. These were omitted by Staff in that version because now they are going before the Planning Board, but the Planning Board does have flexibility in the review process.

These plans met the criteria for Preliminary Review. This is within the GEIS area and this would have to go out for on-site SEQR.

Board Member DeGironimo has a concern about water supply – the engineering report mentions a 12” water main but it is not determined if the flows are sufficient for the hotel and the Hartford. It is a single feed system. She explained further about the process of water lines/flows to this area, and she doesn’t know the fire design flows required by this hotel. Until the Water Board receives the back flow application, it determines whether or not it can be served. The Water Board will be one of the agencies notified for review of this project and at which time items can be addressed.

Board Member Donovan mentioned front yard parking and this was a discussion on the Costello building. He feels going forward we need to make a determination of consistency whether to continue to have front yard parking or not. Parking in the front of buildings could happen and we need to be aware of this. Board Member Donovan also mentioned franchise architecture of the building. He presumes it is a standard hotel and we should examine this in terms of what the aesthetics of the parking might want to be. We are only talking Phase I of this park but other projects could be developed in the future.

Chairman DeLia mentioned parking is not in the front of this building – there is 117’ of frontage for this site but the Code recommends 300. Board Member Humphreys felt the frontage issue would resolve the parking question.

Mr. Adler explained the frontage issue. He also stated that the guidelines setup is a recommendation in the Code. He felt you would never be able to accommodate a building like the Hartford or a decent size building. He will work with the Board and they have tried to present it so it doesn’t allow for the parking in the front. In terms of the area there is nothing being proposed but if they put in a smaller building it would be in the back. Mr. Adler referred to the flow area ratio and asked for the Board’s understanding. Flow area is for the building and he explained how it was calculated.

Codes Officer Booth explained that we have to take deficiencies into consideration – total floor area. That is how he came up with this information adding all three floors.

Maximum coverage is well within the requirements as far as floor plans go.

Mr. Adler addressed lighting. He feels there is some glitches in the Code and .5 candles aren’t lit that much. Board Member Rotton asked if they were going to provide caps on the lighting – it was mentioned yes by Mr. Emerick – there will be no spill. Codes Officer Booth said he is satisfied with their lighting plan but he is not a lighting engineer.

Further, Mr. Adler addressed parking for the pool – the pool is for guests only – there is no membership option.

Board Member Donovan asked the Codes Officer and Town Engineer if they went through the design criteria for the park and matched it with the proposal and he wants to make sure they are comfortable with it. Mr. Booth felt the Planning Board needs to address this zone and take responsibility – this zone has designated criteria. He feels the Planning Board at this time is more important than ever. He is not a Planner and can only give his recommendations

Board Member Donovan felt that this is the first time the Planning Board has reviewed this criteria for this zone. Mr. Adler questioned the guidelines. But felt the Planning Board has discretionary control.

Also, Board Member Donovan mentioned the national prototype and this Board hasn't seen a mock of the building. Has the corporation been asked to consider a modification to their design. Mr. Adler did talk to them and this is their prototype that they use nationally and that they could relocate somewhere else without addressing this issue.

The Board Members did not see these plans until last Saturday. Board Member Rotton would like to see a floor plan. These plans are dated June 2009 and the amended Code was adopted six (6) months ago. Mr. Emerick said the plans have been revised accordingly.

Chairman DeLia stated that Codes Officer Booth and Town Engineer Meagher have spent a great deal of time to make sure the technical details have been met according to Town Law and the Town Attorney has stated this Board has discretion on this.

Board Member Donovan wanted to know how serious is the frontage out of compliance – Codes Officer Booth stated this zone requires 300' and the problem is the impact of that. The setback of the building would be much further than recommended and allowing for parking to be in the front of the structure. Mr. Emerick said the access drive and the way the building is oriented determined the frontage. Mr. Adler said he has no intention of putting parking in front of Woods Park Drive – Board Member Donovan would feel more comfortable if this was in writing to avoid problems in the future. Discussion again ensued regarding the franchising and possible communication with the owners.

This project hasn't been subdivided yet – this is the only zone that requires a review before subdivision.

At this time, Mr. Adler said he doesn't have a problem reducing the monument sign. Codes Officer Booth discussed building signage and what is allowed. Chairman DeLia stated that he would have to get what the Code says for signage.

Reference was made to the National Grid buffer and Mr. Booth said there is a design criteria – it is very specific. Discussion ensued regarding any type of buffering and whether it could be accomplished.

Board Member Rayhill doesn't have an issue with sending this out for review especially since we have authority to approve a modification. Board Member Donovan mentioned the only thing the Planning Board and Town Board did last year was eliminate Staff review of projects in the park district and place it back to the Planning Board.

Chairman DeLia mentioned that each project is reviewed individually; we have the authority to go forward unless the majority of the Board is not intending to do so.

At this time, motion was made by Board Member Jerome Donovan to grant Preliminary Approval and send this out for review; seconded by Board Member Peggy Rotton. All in favor.

Motion was made by Board Member Bob Wood to have the Planning Board be Lead Agency; seconded by Board Member Peggy Rotton. All in favor.

At this time, Chairman DeLia said the Town Attorney would bring the Board up-to-date on the Findings of the GEIS. He said Town Attorney Cully has done a great deal of research on this.

Attorney Cully stated on December 14, 2009 the Planning Board accepted the final Environmental Impact Statement and at that time we were waiting for the Findings statement. A notice of completion was duly filed after we completed that action. More than ten (10) days have elapsed and it was properly mailed to all Interested Agencies. He referred to NYCRR Section 617.10 that deals with the GEIS and Section 617.11 that deals with the requirement that Findings must be prepared. It further stated there are specific criteria to the Findings.

Attorney Cully spoke to the NYSDEC and Ms. Eve Holberg of peter j. smith (consultant for the GEIS) and there is a requirement that we complete this document. We have to adopt the Findings Statement in relation to the FEIS which we have already accepted. After adoption of that it completes all our action on this initially and now it goes to the town Board for any further actions that would be required to put this document in place.

Chairman DeLia asked whether or not we could change the FEIS or the Findings – we cannot. The Findings Statement has to mirror the FEIS and the only way to change it is to have a supplemental study done. There is also a concern about a time table. There is no time table set by statute. However, Attorney Cully feels it is important to go forward because we have a positive declaration still in effect. That positive declaration will continue on until we send it to the Town Board.

Board Member Donovan asked the Town Attorney – what happens with the positive declaration assuming this Board approves the Findings Statement and then it goes to the Town Board – the FEIS provides a mechanism that mitigation can occur. What impact on the positive declaration – the positive declaration cannot be eliminated. Attorney Cully asked Ms. Holberg and she stated that the positive declaration stays – he further explained the process. The positive declaration cannot be eliminated once in place – you can modify the Findings. We have to go forward because we accepted the FEIS. We have to adopt the Findings and send it to the Town Board.

It was the Chairman's understanding that the Findings mirror the FEIS and we need to move forward.

Board Member DeGironimo asked about the status of her input and the comments she submitted. It was noted that the members were not notified about Ms. Holberg's response to the submitted comments. These will be made available.

It was decided to postpone voting on this until the next meeting.

Board Member Donovan mentioned that no matter what the Town Board does, we still have a positive declaration and asked what the impact would be on the positive declaration on any individual project before us in the GEIS area. Would that require every applicant to complete the long form. Discussion ensued regarding mitigation and site specific issues and the positive declaration for the off site impacts. It was stated that the voluntary fees in lieu of mitigation can only be in place by the Town Board. This Board would still have the obligation to require offset mitigation.

Chairman DeLia stated that SEQR has to be met and met one way or the other. He also referred to the four (4) options within the Findings and the Town Board's possible action. They can adopt the Findings and pick whatever option they want. Then the fees in lieu of mitigation would be adopted. There is an option to do nothing as far as zoning is considered, but the Findings would be adopted.

There being no further input, the meeting adjourned at 6:50 P.M.

Respectfully submitted,

Dolores Shaw, Secretary
Planning Board

dbS