

**TOWN OF NEW HARTFORD
PLANNING BOARD MINUTES
MONDAY, MAY 14, 2012
NEW HARTFORD PUBLIC LIBRARY**

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. In attendance were Board Members Jerome Donovan, Peggy Rotton, Julius Fuks, Jr., Brymer Humphreys, Ellen Rayhill, and Heather Mowat. Also in attendance were Town Attorney Herbert Cully, Codes Officer Joseph Booth, Mr. Richard Sherman, Highway Superintendent, Mr. Chuck White, P.E. of Barton & Loguidice, and Recording Secretary Dory Shaw.

Draft minutes of the April 9, 2012 meeting were received by each Board Member. Motion was made by Board Member Peggy Rotton to approve these minutes; seconded by Board Member Ellen Rayhill. Board Member Donovan abstained, as he was not in attendance at that meeting. Motion passed by a vote of 6 – 1 (abstention).

Special Metals, 4317 Middle Settlement Road, New Hartford. Final Site Plan Review/Approval of a proposed building addition 55' 8" x 24' and cooling tower construction. Tax Map #328.000-2-25; Total Lot Size: 119.68 Acres. Mr. Mark Chambers of C & S Engineers, Inc., appeared before the Board.

Codes Officer Booth addressed the Board stating that it was determined that because this application was significantly less than 4,000 square feet, that SEQR was not needed. It had been sent to Involved Agencies with no negative comments. Town Attorney Cully stated SEQR actually wasn't needed because this is a Type II action.

Motion was made by Board Member Peggy Rotton to **grant Final Approval** for the application submitted by Special Metals, map dated March 2012 by C & S Engineers, Inc.; seconded by Board Member Heather Mowat. All in favor.

Board Member Mowat referred to Codes Officer Booth's statement about the SEQR comments (which are a part of the file).

Presbyterian Home Foundation, minor two-lot subdivision at Clinton Road and Preswick Drive. Preliminary and Final Subdivision Review/Approval. Tax Map #328.000-2-62.1; Lot Size: approximately 23 Acres; Zoning: Planned Development Institutional. Mr. Ray Garrett, CEO of Presbyterian Home, and Mr. Dennis Mowers, Surveyor, appeared before the Board.

Codes Officer Booth explained that this is a two-lot subdivision and the survey map was prepared by Mr. Dennis Mowers, Licensed Land Surveyor. Codes Officer Booth commented on the good work performed by Mr. Mowers as lot lines required further review. He feels this application is ready for Preliminary and Final Subdivision Review/Approval.

There were no additional comments by Town Attorney Cully or Mr. Chuck White.

Motion was made by Board Member Peggy Rotton to **grant Preliminary and Final Subdivision Approval** of map dated April 18, 2012; seconded by Board Member Ellen Rayhill. All in favor.

Hogeboom & Canfield, 129 Oxford Road, New Hartford. Zone Map Amendment from Low Density Residential to High Density Residential. Recommendation to Town Board from Planning Board. Attorney Mark Levitt appeared before the Board to answer any questions this Board may have on this proposed project.

Town Attorney Cully referred to the packet submitted by Attorney Levitt, and he also addressed the criteria as it relates to the Planning Board recommendation to the Town Board.

Codes Officer Booth explained the difference in zoning between Low Density Residential (LDR) and High Density Residential (HDR). High Density Residential is the highest density zone for residential geared for multi-family. Board Member Donovan asked where there were other HDR zones in the Town, and he also referred to the proposed project on Middle Settlement Road. Codes Officer Booth referred to several locations where HDR zones are located and the project on Middle Settlement Road is a different zone (PDMU) which allows congregate residences.

Chairman DeLia said this proposed project is adjacent to an HDR zone, which is Oxford Town.

Attorney Levitt stated these are upscale residential apartments geared for age 55 and over. He displayed a footprint subject to the Zone Map Amendment being granted, and then coming to the Planning Board for Site Plan Review. In discussions with the Library, they stated the need for more parking and they may be able to consider this. This is not subsidized housing – rent approximately \$900 - \$1200 a month. When a preliminary market study was done, it was determined that there is a need and this is a nice upscale area. They are not asking for any Zone Change between the railroad tracks and Route 8 – this is a great area to deed to the Town for storm water management and that was on the survey map as there is a water runoff problem behind some of the houses.

Chairman DeLia felt that this can be addressed at Site Plan Review.

Board Member Donovan asked if this is going to be tax exempt. Attorney Levitt stated it is taxable property. Attorney Levitt explained the process with Liberty Affordable and the contract with Hogeboom & Canfield.

Public services are on the site; two (2) access roads are available. Attorney Levitt feels there will be no impact on Police, Fire, etc.

Board Member Mowat referred to the number of proposed apartments on site. She feels there would be an impact with the number of proposed vehicle trips per hour. She asked if they did a crash study as that can be done by the County within a couple of days. Attorney Levitt said all of these items will be addressed as part of the Site Plan Review process.

Also, Board Member Mowat referred to drainage issues at Harrogate/Bromwich Roads. However, the developer would have to comply as part of the Site Plan Review process. He felt it was premature until they know if they get the Zone Map Amendment.

Chairman DeLia feels the SEQR process is very clear on drainage. Board Member Humphreys doesn't see how the Zone Change creates more traffic with this or other service issues. Board Member Donovan related to the adjacent properties, i.e., library, school, church that could have substantial traffic flows. Board Member Rotton feels this type of housing is needed. Board Member Donovan stated the Town Board hasn't updated the Comprehensive Plan since 2007 to identify this.

Board Member Fuks asked if there is one (1) means to the property or two (2). Attorney Levitt said the primary access is through Bromwich Road then Oxford Road. He feels the traffic will be split. Board Member Fuks asked about current zoning for the existing areas, nature of the community – Codes Officer Booth explained. Board Member Fuks feels the Zone Change and nature of the community will be addressed.

Attorney Levitt stated this property came out of the same property of years ago. Hogeboom & Canfield donated the first piece to the Library and the Library bought the second piece.

Board Member Rayhill asked, if we make the recommendation and the Town agrees, we are saying it is an appropriate place for the HDR use. Stated yes – it is not tied to anything else.

Motion was made by Board Member Brymer Humphreys to recommend the Zone Map Amendment from Low Density Residential to High Density Residential for the project submitted by Hogeboom & Canfield; seconded by Board Member Peggy Rotton. Vote taken:

Chairman Elis DeLia – yes
Board Member Peggy Rotton – yes

Board Member Brymer Humphreys – yes
Board Member Julius Fuks – yes

Board Member Jerome Donovan – yes
Board Member Heather Mowat – yes

Board Member Ellen Rayhill – yes

Motion **passed** by a vote of 7 – 0.

Board Member Donovan noted that he supports this based on the findings of the Comprehensive Plan that were adopted by the Town Board in 2007; however, not pursued in terms of rezoning.

Longeretta Law Firm for Cristiano property on Lindale Avenue, New Hartford.

Amendment to Final Subdivision Approval. Tax Map #340.000-1-36.1; Zoning: Residential/Agricultural 1. Attorney David Longeretta, Mr. Al Forte of Octagon Engineering, and Messrs. Antonio and Frank Cristiano appeared before the Board.

Town Attorney Cully addressed the Board stating that on May 9, 2005 the Planning Board granted Final Approval to Mr. Cristiano for a three-lot major subdivision on Lindale Avenue. He referred to the minutes along with minutes from various other meetings. The Town owns the land but Mr. Cristiano will maintain it and that is why we are here tonight. Former Highway Superintendent Roger Cleveland had nothing in writing but a verbal agreement between Mr. Cristiano for snow plowing and lawn maintenance. There is a cul-de-sac and then a hammerhead affect. Attorney Longeretta, who represents Mr. Cristiano, contacted Attorney Cully and provided the Town with a deed and updated survey description - they want to dedicate the hammerhead and the Town would take ownership. It is before this Board to review it further/amend it.

There was a meeting with Mr. Al Forte, Attorney Longeretta, Highway Superintendent Richard Sherman, Town Attorney Cully and Codes Office Joseph Booth to take a look at this. The concern is the developer is seeking to modify or amend that final approval that the Town would own the hammerhead and also maintain it. Mr. Sherman had concerns about that type of an arrangement.

Chairman DeLia asked if there were any questions.

Board Member Donovan noted that he made the motion for Preliminary Approval on May 9, 2005 and he voted for it based on the assurances of the Chairman and Highway Superintendent Cleveland that this was agreeable to all parties and that there was an agreement. There was no objection to this at that meeting. He remembers a snow problem concern.

Mr. Sherman said his major concerns are winter maintenance. He explained what the trucks had to do and where would they place the snow, all because of the hammerhead. It is unheard of with both in the same location – usually it is one or the other.

What would happen if they sell their properties in terms of maintenance – Town Attorney Cully said there would have to be some mechanism in place to the property with the owner assuming responsibility. Attorney Cully addressed legal issues.

Attorney Longieretta presented everything to go forward. There are two (2) developed properties there and they are looking at the third developed property. We have been working with the Town to get it resolved. They received a proposal to put in a jug handle but it would create more non-conforming lots.

Town Attorney Cully suggested extending the hammerhead which would preserve lot frontage. The Town does not own it at this time. The Town isn't responsible.

Board Member Mowat said the Planning Board doesn't have the right to take ownership of the road – it is a Town Board matter and what is the issue now after all these years.

It was stated that on July 20, 2005 the Town Board agreed to accept this. The County Clerk's Office doesn't have any deeds – there were never any deeds. The agreement was that the Town would take ownership but nothing was done. The issue now is the maintenance of it. It was further stated that Mr. Cristiano was required to construct that hammerhead. Also, it was stated if the Town takes over the road, they have to provide service.

Attorney Longieretta understands Mr. Sherman's concerns but a truck is being backed up there anyway on Lindale. He feels it can be done through the hammerhead and down Lindale, for liability reasons it would be a good idea to take it over.

Mr. Sherman said the reason for the cul-de-sac is that the plow doesn't have to back up. Where would we put the snow?

Board Member Rotton asked about the existing pillars and it was explained they are 11' off the shoulder.

Board Member Mowat said for the past seven (7) years Mr. Cristiano was maintaining it. Is it just because there is so much snow that you can't plow. Attorney Longieretta said coming down Lindale the parcel off to the right is being sold to an individual and they want to make sure the maintenance of the road is being cleaned.

Chairman DeLia and Town Attorney Cully have the same concern, i.e., verbal agreement liability issues and maintenance.

Board Member Donovan feels we may be a little premature. Town Attorney Cully doesn't want to record this deed until how this road will be maintained, and Attorney Longheretta shows proof.

Mr. Forte said they can't move forward without accepting the property. The house would be non-conforming. There is a Resolution for the Town to accept the road. Three lots were originally going to be for all one family. Now they want to sell the third lot because a family member doesn't want it. It starts with three (3) lots and it is still three (3) lots. The condition being that they maintain this hammerhead.

What would be the point to deed it over to the Town? It was stated so they can get three (3) conforming lots. The hammerhead created the 100' of frontage. This was a legal requirement to get three (3) lots. Attorney Cully said at that time it was intended to be a family subdivision of three (3) family members and the only way to get the road frontage was to do this.

Mr. Forte said Mr. Cristiano was going to put in ten (10) lots rather than three (3) originally. They did everything they could to not put in a hammerhead, but it was recommended to make legal lot sizes. This particular lot the family owned, but not it is a private sale. Mr. Forte's perspective is you cannot delegate responsibility without an agreement, insurance, etc. He tried not to put in a hammerhead. Mr. Forte explained how Mr. Cristiano has to remain conforming. There is a follow-up letter of June 20, 2005 from Attorney Vincent Rossi (former Town Attorney). His thought is that it must have been resolved because a Building Permit was issued. They have agreed to all the Town's requirements and now there is a dilemma. We need to 1) have a "T" after a cul-de-sac or 2) allow three (3) lots to be non-conforming. With the "T" it would give the three (3) lots the required Town frontage.

Board Member Humphreys suggested sending this to the Zoning Board of Appeals

Town Attorney Cully said when Lindale Avenue was developed, it was a dead end. The developer put the circle in. He talked to four (4) neighbors and they don't want their driveways any longer or lawns longer – they want the cul-de-sac.

Mr. Forte reviewed the concept provided by Mr. Chuck White but they only have the 60' frontage. Mr. White said the residents don't want any changes, it would require an adjustment – it is only a suggestion. They would have to purchase a right-of-way and Mr. White showed them.

Mr. Forte stated at one time there was an agreement between the Town and Mr. Cristiano to take out the cul-de-sac for \$15,000. But again when you go through SEQR the landowners were suppose to do it. For some reason it was dropped and that was October 25, 2004.

Board Member Mowat asked the Highway Superintendent – do you provide this type of plowing in other places and is it that time consuming to do this? We have a problem here – is there any way you can use a smaller truck to do Lindale Avenue – Mr. Sherman said no, but he would review this further.

Chairman DeLia feels everyone recognizes the problem.

Motion was made by Board Member Brymer Humphreys that we do not approve the amendment; seconded by Board Member Heather Mowat.

Further discussion: Board Member Donovan asked Town Attorney Cully if it was unusual not to file a deed. Attorney Cully said it is not unusual. Board Member Donovan would like to refresh his memory by talking to Jerry Green who was on the Planning Board at that time. Board Member Mowat agrees.

Chairman DeLia noted this Board is not required to grant Amendments to Final.

Board Member Donovan asked that the motion be withdrawn by Board Member Humphreys based on discussion or vote on it. Board Member Humphreys withdrew his motion in an effort to table this application and to address it in another month.

Motion was made by Board Member Donovan to table this application; seconded by Board Member Rotton. All in favor.

Chairman DeLia hopes Attorney Longaretta would consider an engineering concept and have Mr. Forte spend some time with Mr. Chuck White to try to work this work out.

Mr. Forte said he feels they should take the cul-de-sac out. Mr. Frank Cristiano addressed the Board stating that the cost to do some engineering is costly. He has had a buyer sitting on this for six (6) months.

Town Attorney Cully asked the Board Members if they would like him to talk with former Town Attorney Vincent Rossi – the Board agreed.

Recommendation to the Town Board regarding **Local Law Introductory “E” of 2012** – proposed amendment to the Town Zoning Law, particularly **temporary signs**.

Town Attorney Cully referred to Section 118-54 of the Town Code. Last fall there was an issue raised and he was asked questions about political signs and sizes. He did some research and referred to a particular incident in Herkimer regarding litigation. As part of that settlement,

they amended their Sign Ordinance to eliminate the distinction relating to political signs – freedom of speech had been raised. Now, the Town Board referred it to the Planning Board for recommendation. He referred to the suggested wordage. The whole intent is to amend it within residential and commercial zones to 8 sf.

Board Member Fuks asked if we can have the person’s name on the sign responsible – answer was no.

Codes Officer Booth referred to our Ordinance, which provides for two (2) months prior and one (1) week after the political season. He is aware of political signage and what the Town allows. Currently, commercial areas are 32 sf and residential is 6 sf – this amendment would be a uniform 8 sf total for both residential and commercial areas. The Town Board decided on this number.

Board Member Donovan referred to the former committee reviewing the Sign Ordinance in 2007. This was to clear up the signs in rights-of-way, etc. The Town has done a terrific job in enforcing this. He would rather see 6 sf.

Chairman DeLia said anyone can still use 6 sf – they don’t have to have 8 sf. Board Member Rayhill said there are existing signs that are bigger and she wonders if 8 sf is big enough.

Board Member Fuks asked what would happen if someone wanted to make a “train” effect, i.e., bazaars, fundraisers, etc. Also, we aren’t doing anything to address the “train” of signs, for example, going down someone’s driveway. He asked when there was an amendment to the law last regarding this - it was in 2007. Board Member Fuks suggests that maybe this needs to be more comprehensive to address this item.

It was stated that we may not be able to outlaw the notion of only one sign on a front lawn. Board Member Mowat agrees, especially regarding Church signs. It was stated 8 sf could be problematic for Churches.

Codes Officer Booth doesn’t have a problem with Church signs.

After reviewing this application, it was determined as follows:

Motion was made by Board Member Peggy Rotton to recommend approval to the Town Board for the amendment of Section 18-54 (F) Signs not requiring a permit, (6) Temporary Signs; seconded by Board Member Jerome Donovan. Vote taken:

Chairman Elis DeLia – yes	Board Member Peggy Rotton – yes
Board Member Jerome Donovan – yes	Board Member Heather Mowat – no

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Board Member Julius Fuks – no
Board Member Brymer Humphreys – no

Board Member Ellen Rayhill – no

Motion did not pass by a vote of 4 – 3.

It was stated by Board Member Mowat that a more comprehensive review is needed especially dealing with educational, charitable and religious entities.

There being no further business, the meeting adjourned at 7:55 P.M.

Respectfully submitted,

Dolores Shaw
Secretary/Planning Board

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