

**PLANNING BOARD MINUTES  
MONDAY, AUGUST 12, 2013  
BUTLER MEMORIAL HALL  
48 GENESEE STREET, NEW HARTFORD, NY  
RODGER REYNOLDS MEETING ROOM  
5:30 P.M.**

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 Peggy Rotton, G. Brymer Humphreys, Julius Fuks, Jr., William Morris II (arrived at 5:35 PM), Ellen Rayhill and Heather Mowat. Also in attendance: Councilman David Reynolds, Town Attorney Herbert Cully, and Recording Secretary Dory Shaw.

Draft minutes of the April 8, 2013 meeting were received by each Board Member. Motion was made by Board Member Peggy Rotton to approve these minutes with an inclusion on Page 1, #1 to show a traffic signal in front of Panera's; seconded by Board Member Julius Fuks, Jr. (Board Member Bill Morris was not present at time of the voting). All others in favor.

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**Mr. Antonio Cristiano, 3900 Oneida Street, Washington Mills, New York.** Preliminary/Final Site Plan Review of a proposed development and renovation of an existing building for commercial uses (former Massoud's Lounge). Tax Map #339.016-1-48.1; Lot Size: 1.612 Acres; Zoning: Retail Business 2. Mr. Antonio Cristiano and Mr. Al Forte of Octagon Engineering appeared before the Board.

Mr. Forte explained that Mr. Cristiano recently purchased this property; it has been in a state of disrepair for years. There is one driveway and parking is in the rear. The building is almost on the right-of-way, which is preexisting. He would like to rent to a Judo-type gym business at this time, which would take about 5,700 sf. This is a 17,330 sf building. This meets all requirements for zoning. A gym is not a permitted use except through Site Plan Review. Mr. Cristiano has a Building Permit and has been renovating the building. Mr. Forte referred to the site plans and addressed the façade, parking spaces, etc. Nothing will change – the main entrance is still in the rear. He doesn't have a tenant for the rest of the building at this time. He knows that if they do more paving they have to have a drainage plan.

Town Attorney Cully stated Mr. Forte would need to see Codes Officer Booth with a drainage plan if/when needed and whether they have to come back to the Planning Board.

Board Member Rotton asked about flooding in this area. Mr. Forte referred to the first page of the site plan prepared by a local surveyor – nothing floods within their property over the 100-year flood storm. Board Member Rotton referred to standing water in the back. Mr. Forte said they aren't expanding the paving or building – everything remains the same. He did say,

however, that they are increasing impervious by a very small amount. They have to put in a sidewalk to make it handicap accessible, 5' x 100'.

SWPPP isn't required because this is under an acre. Oneida County Planning comments were received without any impacts; Oneida County DPW did not comment.

Board Member Mowat wanted to know what other uses are allowed on this property. Also, she would have liked to have seen some comments regarding traffic in this area.

Attorney Cully gave the Board Members a brief history of the property and how the prior owner tried to obtain a Use Variance for apartments but was denied. The prior owner was going to run a dog day care at this site, but that didn't transpire.

Chairman DeLia asked the Board Members if there were any other comments.

Motion was made by Board Member Julius Fuks, Jr. to grant preliminary approval; seconded by Board Member Brymer Humphreys. All in favor. Motion was made by Board Member Bill Morris to grant **final approval** with plans submitted by Octagon Engineering and dated July 17, 2013; seconded by Board Member Julius Fuks, Jr. All in favor.

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Mr. Robert Kessler for **Trailside Subdivision** off Glendale Avenue, New Hartford, New York. **Amendment to Final for Trailside subdivision.** Reversing four (4) lots into one (1). Tax Map #316.000-2-34; Zoning: Medium Density Residential. Mr. Robert Kessler appeared before the Board.

Board Member Julius Fuks, Jr. abstained from this application.

Mr. Kessler mentioned that final approval was given to this major subdivision on December 12, 2012. However, Mr. Kessler would like to start building a home at this site now. He can't go forward to build the entire road and utilities. Attorney Cully had reviewed this and suggested Mr. Kessler submit paperwork to move forward. The only legal way to secure a Building Permit to start building a home is to reverse the subdivision because he eliminated some lots and created one lot. He meets the necessary road frontage to put in a driveway.

Board Member Mowat asked if there were any negative comments brought up about this. Mr. Kessler said he is going to combine those lots to get the road done. He would like to get something going and this would help. The road will be mostly in by the time the house is up. When the road is finished he will convey the road back to the Town. This would be an Amendment to Final.

Board Member Mowat asked if there were any negative comments from Staff. Mr. Kessler said he met with Staff.

Chairman DeLia stated that he would need to come back to this Board when he changes back – Mr. Kessler is aware of this.

Motion was made by Board Member Peggy Rotton to grant an **Amendment to Final** for Mr. Kessler's application dated August 2, 2013; seconded by Board Member Ellen Rayhill. Vote of 6 - 0 (Board Member Fuks abstained).

Note: Mr. Kessler will submit the amended plan by his engineer for Planning Board signature and to be filed with Oneida County Map Room.

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Response to Town Board regarding Local Law B of 2013: Wind Energy Facilities. Amendment to Town Code Chapter 117A.

Attorney Cully explained what has been transpiring with this proposed legislation in detail, especially the Findings/definitions. The Town Board came up with a proposed Local Law with subsequent changes. All correspondence has been made a part of the file. The whole intent was that we did not want to take away the ability of a person who wants to put up a small unit for their residential purposes but they don't want to encourage larger commercial areas. There can only be one facility per lot. Attorney Cully referred to height requirements. He also talked about noise restrictions, i.e. wattage relevant to height.

Board Member Fuks, Jr. stated that relative to SEQR, Type I listing, and no segmentation. He feels this is an excellent addition. Board Member Mowat agrees but by putting it in writing it makes things clearer.

Board Member Humphreys objects to the one tower per lot. He has a 160 acre lot for agriculture. He would need more than one facility. He also feels the permitting is a little cumbersome. Town Attorney Cully mentioned that he could try for a variance from the Zoning Board of Appeals.

Board Member Rayhill agrees with Mr. Humphreys. Board Member Humphreys feels it would take more than 10 or 15 acres to keep out of each other's way regarding space requirements. In many cases you would need more than one unit to operate a farm.

Chairman DeLia stated he supports Board Member Humphreys' comments if the Town can put it in for Agricultural use.

At this time, motion was made by Board Member Peggy Rotton to recommend to the Town Board approval of the amendment to the Town Code to create a new Chapter 117A, Wind Energy Facilities/Local Law Introductory B of 2013 but that Agricultural areas should be allowed more than one (1) facility per lot; seconded by Board Member Ellen Rayhill. Vote taken:

Chairman Elis DeLia – yes  
Board Member Ellen Rayhill – yes  
Board Member Heather Mowat – yes  
Board Member Bill Morris – yes

Board Member Peggy Rotton – yes  
Board Member Julius Fuks, Jr. – yes  
Board Member Brymer Humphreys – yes

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

Secretary Dory Shaw will notify the Town Board of this recommendation.

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

Respectfully submitted,

Dolores Shaw  
dbs