

**TOWN OF NEW HARTFORD
PLANNING BOARD MINUTES
RODGER REYNOLDS MEETING ROOM
DECEMBER 8, 2014
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, Lis DeGironimo, G. Brymer Humphreys, William Morris II, Julius Fuks, Jr., and Heather Mowat. Also in attendance: Town Attorney Herbert Cully, Codes Officer Joseph Booth, Highway Superintendent Richard Sherman and Recording Secretary Dory Shaw.

Draft minutes of the November 10, 2014 meeting were received by each Board Member. On Page 5 change GIS to GEIS. Motion was made by Board Member Peggy Rotton to approve these minutes with the clarification; seconded by Board Member Brymer Humphreys. All in favor.

Mr. George Karam, 625 French Road, New Hartford, Final Site Plan Review for a change from residential use to commercial use at 625 French Road. Tax Map #316.016-6-64.2; Zoning: C-2 General Commercial. Mr. Zack Comstock of Tomaselli Architects and Mr. George Karam appeared before the Board.

Mr. Comstock submitted changes to the site plan as requested by the Planning Board and contract engineer Chris Lawton of Barton & Loguidice. Reference was made to the two (2) Do Not Enter signs at second driveway; two (2) directional arrows in back, one-way sign (shown on the building and other locations). Access to the dumpster he feels is not an issue as they come at 2:00 or 3:00 AM. Parking spot #34 was restriped for better turning and backing up; moved and restriped parking spot #23. They have adequate parking spaces as required by Code – total of 44. Easement with a permanent designation was submitted.

Chairman DeLia asked Codes Officer Booth if he was satisfied with this submittal – Mr. Booth said yes.

There being no further discussion, motion was made by Board Member Bill Morris to grant Final Approval to Mr. Karam; seconded by Board Member Peggy Rotton. All in favor.

Mr. Michael Baldwin, 8944 Tibbitts Road, New Hartford, New York. Preliminary Site Plan Review of a proposed airstrip at his residence on Tibbitts Road. Tax Map #339.000-2-35; Lot

Size: 1.1 Acres; Zoning: Agricultural. Mr. Baldwin appeared before the Board. His attorney was not present.

Town Attorney Herbert Cully handed out to each Board Member Section 118-102 (General Considerations for Planning Board review of site plans) and Section 118-103 (Specific standards for Planning Board review of site plans). This is a Site Plan Review, permitted in an Agricultural zone. He went through the listed criteria, in particular landscaping/buffering of noise, protection of adjacent properties, offsite impacts, etc. Mr. Baldwin has submitted a long Environmental Impact Statement, which we have requested. There was some question regarding this long EAF but there are issues regarding noise, etc. On Page 2 Government Approvals, Mr. Baldwin checked no. However, Attorney Cully believes the NYSDOT has some jurisdiction in this matter. Under General Business Law, there is a requirement that the Town Board would send this to the NYSDOT regarding take-off and landing. On Page 6 Item F proposed action regarding emissions, fuel combustion, etc. it is checked yes. Page 8 noise, etc. it is checked yes. – needs to provide details. These are some of the applicant's submissions. Attorney Cully stated 1) is this an action subject to SEQR – the law is clear and feels it is subject to SEQR review; 2) The next step would be to classify the action. In reviewing the standards, Attorney Cully feels this appears to be an Unlisted Action, not Type I or Type II. It is up to this Board to look at the criteria whether or not there could be significant environmental impacts. If so, it would be up to this Board to make a motion for Lead Agency and a coordinated review of NYSDOT 249 of the General Business Law and it would get sent out to Interested and Involved Agencies.

Board Member DeGironimo referred to an improvement done in 2011 before the Site Plan Review rule. Attorney Cully said when the Town redid the Zoning Ordinance, under permitted Agricultural uses, it allows a landing strip. Codes Officer Booth said the old Ordinance was silent on landing strips. In 2011, it would not have been permitted. It became permitted in 2014 under Site Plan Review. Reference was made to no excavating – Mr. Booth feels the work had already been done.

Board Member DeGironimo mentioned this requiring a SPEDES Permit and SWPPP. Apparently, there weren't any complaints during construction; this had requirements during construction because of grading involved.

Chairman DeLia stated we may need to seek assistance on this and feels SEQR is the proper way to go forward. He has concerns of the neighbors and Mr. Baldwin.

Motion was made by Board Member Julius Fuks, Jr. to have the Planning Board be Lead Agency for this application; seconded by Board Member Bill Morris.

Chairman DeLia stated that when responses come back and if we feel there are significant adverse impacts, then there would be a positive declaration put in place.

Board Member DeGironimo asked if the Town has any Ordinance regarding decibel noise levels – Codes Officer Booth said no.

Vote taken on motion: all in favor.

Chairman DeLia said Secretary Dory Shaw will send this out to the agencies as soon as possible and it may not be back in time for the January meeting. He also mentioned involving Mr. Chris Lawton, contract engineer for the Town, regarding noise levels.

Board Member Rotton asked if there has been any favorable input regarding this activity as she has seen one response not in favor. Attorney Cully referred to a petition Mr. Baldwin submitted to the Town Board with approximately 100 signatures in favor. There were about three or four people opposed. It was not a Public Hearing.

Attorney Cully stated that under General Business Law, Mr. Baldwin brought a Resolution to the Town Board to refer this to NYSDOT to review the landing strip. He was asking the Town Board to pass a Resolution to send it to the Commissioner of NYSDOT to review it. Attorney Cully explained that under our Ordinance it is a Site Plan Review, even permitted is discretionary. The plan shows it very close to someone's house. Based on our Ordinance, the Town Board didn't entertain that request as it was going to the Planning Board for Site Plan Review.

Board Member Mowat said it was previously stated that Mr. Baldwin incorrectly checked a box(es) on the EAF form unintentionally. Theoretically, he went to the Town Board? Attorney Cully said yes.

Mr. Baldwin referred to a letter about the approval process and his attorney's opinion that this Board, because it is the Board that that grants authority, that this Board can authorize him to go to NYSDOT and make that request for their review. He is asking for a parallel process. He explained what NYSDOT would do at the site and who would be involved. Attorney Cully feels that Resolution would have to be passed by the Town Board and it has not been done by them.

Chairman DeLia referred to Town Attorney Cully: as our Counsel, you are telling us this is not something we will pass (Resolution for NYSDOT).-

Attorney Cully said yes, according to Counsel from NYSDOT.

Board Member Humphreys addressed the proposed reduction in Planning Board members being addressed at the Town Board. Chairman DeLia felt this is a Town Board issue to be addressed at a Town Board meeting.

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There being no further business, the meeting adjourned at 6:00 P.M.

Respectfully submitted,

Dolores Shaw
Secretary/Planning Board

dbb