

**TOWN OF NEW HARTFORD  
PLANNING BOARD MINUTES  
RODGER REYNOLDS MEETING ROOM  
FEBRUARY 9, 2015  
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., and Heather Mowat. Board Members absent: Lis DeGironimo and William Morris; Codes Officer Joseph Booth. Also in attendance: Town Attorney Herbert Cully, Highway Superintendent Richard Sherman, Assessor Darlene Abbatecola, and Recording Secretary Dory Shaw.

Draft minutes of the December 8, 2014 meeting were received by each Board Member. Motion was made by Board Member Peggy Rotton to approve these minutes as written; seconded by Board Member Brymer Humphreys. All in favor.

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**AutoZone Parts, Inc., 4470 Commercial Drive, New Hartford, New York.** Preliminary Site Plan Review of a proposed 6,816 sf AutoZone store. Tax Map #328.011-1-13; Lot Size: approximately 1.50 Acres; Zoning: C1 General Commercial. Mr. Nathan Kirschner, engineer for the applicant, appeared before the Board.

Mr. Kirschner presented a sketch of the proposed AutoZone and what is currently on the site and also surrounding businesses. The existing structure/restaurant will be demolished and a new AutoZone store of approximately 6,816 sf will be constructed.

They are leaving two (2) existing curb cuts, and improving the westerly curb cut. They have submitted plans to NYDOT and to show increased landscaping. Mr. Kirschner is seeking a waiver on the required shrubs and plants along the front part because of visibility. Without the waiver, it would affect a change in the building location.

Mr. Kirschner stated that storm water complies. He has received comments from Barton & Loguidice, contract engineer for the Town, and they have reviewed those comments and are addressing them. Of particular interest is Mud Creek and it needs to be addressed correctly. Catch basins will be placed on site.

Mr. Kirschner stated that the Code requires a 10' landscape buffer around the building. They are requesting consideration be given because of the topography of the property and in order to provide this, they would have to shift the building about 10'. They provided what they feel is an adequate landscaping plan to compensate for the lack of width.

Chairman DeLia mentioned that Codes Officer Booth stated this meets all Town Code standards and that he didn't have a problem with the site. Chairman DeLia stated that storm water is an onsite issue and we will be looking for NYSDEC'S input. This will be reviewed extensively. Offsite is taken care of through the GEIS study.

Chairman DeLia asked if the Board Members had any questions. Board Member Mowat addressed the square footage of the building, which is 6,816 sf (Mr. Kirschner had misspoken about the size). She also referred to green space by Commercial Drive – it is green space and not shrubs/trees because of the right-of-way. Reference was made to the 10' Code requirement and Mr. Kirschner said this is a national store which has a certain look and they would like to keep the same design.

Board Member Mowat asked Town Attorney Cully about underground tanks for storm water with new construction. Mr. Kirschner explained how storm water would work and they will have a dry pond on this site.

Chairman DeLia stated that during discussions, contract engineer Chris Lawton didn't express this to go to another system. (Mr. Lawton was not present at tonight's meeting).

Reference was made to parking. Maximum is 42 spaces; minimum is 35. They will have 42 spaces.

Board Member Fuks referred to signage – are you going to have a sign by the road. Mr. Kirschner showed where the pylon sign would be located. Board Member Fuks asked if they contacted NYS Office of Parks, Recreation and Historic Preservation. This agency will be contacted through SEQR review.

Highway Superintendent Richard Sherman asked about lighting and how it would affect neighboring properties, especially to the south. Mr. Kirschner said lights would be directed down and there is good buffering to the south.

Motion was made by Board Member Peggy Rotton to grant Preliminary Approval to AutoZone; seconded by Board Member Brymer Humphreys. All in favor.

Motion was made by Board Member Peggy Rotton to have the Planning Board be Lead Agency under SEQR for onsite issues and a coordinated review for this application; seconded by Board Member Julius Fuks, Jr. All in favor.

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**Recommendation to Town Board for Zoning Text Amendment.** Local Law Introductory "C" of 2015. Schedule "A" Permitted Uses, Section 118-65 (outdoor storage accessory for residential uses) and Schedule A Permitted Uses (home occupations, Type 1 and 2).

The captioned submittal from the Town Board for a recommendation was addressed. Discussion ensued regarding Local Law Introductory "C" of 2015 Chapter 118 relating to Section 118-65 (outdoor storage accessory to residential uses), and Schedule A (attachment 3) Permitted Uses – Home Occupations Type 1 and 2).

Motion was made by Board Member Heather Mowat to recommend approval to Local Law Introductory "C" of 2015, Section 118-65 as described above; seconded by Board Member Julius Fuks, Jr. Vote taken:

Chairman Elis DeLia – yes  
Board Member Julius Fuks, Jr. – yes  
Board Member Brymer Humphreys – yes

Board Member Heather Mowat – yes  
Board Member Peggy Rotton – yes

Motion passed by a vote of 5 – 0.

Secretary Dory Shaw will notify the Town Board.

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**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. Kevin Martin, Esq. and Mr. Michael Baldwin appeared before the Board.

At approximately 5:45 P.M., Chairman Elis DeLia abstained from this portion of the meeting as there is an infrastructure issue on a Board that he chairs. He made this discussion after consulting with counsel. He will turn the meeting over to Board Member Julius Fuks, Jr.

Kevin Martin, Esq., appeared on behalf of Mr. Michael Baldwin. He received a letter from Town Attorney Cully indicating some additional information needed. Two concerns were raised.

- 1) A water tower proposed by Mohawk Valley Water Authority. He submitted Exhibit 1, which showed the location of the airstrip and the water tower. He indicated this would have no interference. This letter has been made a part of the file. As it refers to location and elevation.
- 2) Noise. This plane would only be operated in good weather, probably once a day and from May through October. Attorney Martin referred to take off time, idling and full power. It was determined that he would be at least 1000 feet from the nearest residence. Total time for take off would be about 30 seconds. Bringing in the plane to land would require less power. This has also been made a part of the file.

The nearest residence is about 700 feet away. Attorney Martin referred to noise being less than a lawn mower that would run hours at a time.

Board Member Mowat asked if a larger plane could take off and land from this site. Attorney Martin said no. Mr. Baldwin would not be allowing others to use his property. A larger plane would require a longer airstrip. Mr. Baldwin said the airstrip is 900 feet long which is limited – it is restricted because of the length.

Town Attorney Cully asked if other people would be allowed to take off and land. Attorney Martin said the plane is for his personal use.

Attorney Martin was asked if Mr. Baldwin could lease space for others to store small planes. Board Member Humphreys said this property is zoned Agricultural and feels it might need a Special Use if he leases.

Board Member Fuks mentioned that this application would need two (2) motions; 1) to close SEQR and 2) a decision on this application as it is a permitted use. We need to make sure we address our concerns in the final motion.

Board Member Rotton wondered if this Board was setting a precedent as this is an Agricultural area and would people want private airstrips. Attorney Cully said we would be setting a precedent but each application stands on its own merits. If we restrict this one, are we restricting everyone else.

Attorney Cully to Attorney Martin. There are a number of residential lots close to this property. One in particular that was considered for an athletic site. Also, you mentioned 1000' from the nearest residence. Is it what exists today. Have you taken into consideration future sale of properties. There are a number of residential lots in proximity.

Attorney Cully also referred to the Town Board receiving correspondence from neighbors about the loud noise – have you responded to any of those concerns. Attorney Martin referred to other similar noises that occur on a regular basis, lawnmowers for example. This airplane only involves 30 seconds when a lawnmower could be used many hours. He also referred to OSHA standards. The FAA states a jet with four (4) engines is allowed to fly at only 500 feet of altitude over non-congested rural areas (unless landing or taking off). He feels we need facts – this is a modest amount of time and feels noise is not an issue.

Attorney Martin referred to his letter and where he spoke of idling. This is not correct. It will be full power for ten (10) seconds and not idling – total of no more than 30 seconds.\

Town Attorney Cully referred to the tax map. There are two (2) strips. - takeoff and landing and 500' from property #36.2 Isn't it about 5 feet or 10 feet. This is the Keaveney property. There is no home there. However, people have been talking about a sports facility at this location.

Board Member Fuks stated Mr. Booth had a chance to take a look at it. Are we in violation of the airstrip the way it is setup. Town Attorney Cully said he doesn't feel we are.

Town Attorney Cully said the nearest residence from the end of Mr. Baldwin's airstrip is 700' from today. These are residential lots zoned for residential dwellings and Longworth Acres is there where you can build houses. When you made the representation of 700', did you take into consideration lots on which residences could be built – Attorney Martin said no, just what is there now.

Board Member Fuks stated we received comments from agencies during the SEQR process. Any additional comments were satisfied with the application or presented by the agencies.

At this time, motion was made by Board Member Brymer Humphreys to close SEQR with a negative declaration; seconded by Board Member Peggy Rotton.

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

Board Member Brymer Humphreys – yes  
Board Member Heather Mowat – yes

Motion passed by a vote of 4 – 0.

Board Member Fuks discussed things relative to noise, etc.

Motion was made by Board Member Heather Mowat to grant **Final Approval** to the application of **Mr. Baldwin** for the **airstrip**; seconded by Board Member Peggy Rotton.

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

Board Member Brymer Humphreys – yes  
Board Member Heather Mowat – yes

Motion passed by a vote of 4 – 0.

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

Respectfully submitted,

Dolores Shaw  
Secretary/Planning Board

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