

**TOWN OF NEW HARTFORD  
PLANNING BOARD MINUTES  
OCTOBER 15, 2019  
TOWN OF NEW HARTFORD MUNICIPAL OFFICES  
8635 CLINTON STREET, NEW HARTFORD, NEW YORK**

The Regular Meeting was called to order by Chairwoman Heather Mowat at 5:30 P.M. at which time the Pledge of Allegiance was recited. In attendance were Board Members Julius V. Fuks, Jr. (arrived at 5:45 PM); G. Brymer Humphreys, William Morris, Lis DeGironimo, John Latini III, and Wilmar Sifre. Also in attendance: Town Attorney Herbert Cully; Code Officer Joseph Booth; Councilman Richard Lenart; Assessor Darlene Abbatecola; Highway Superintendent Richard Sherman; Contract Engineer Brian Madigan; and Secretary Dory Shaw.

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Draft minutes of the September 9, 2019 Planning Board meeting were reviewed by each Board Member and approved by motion of Board Member Lis DeGironimo; seconded by Board Member Brymer Humphreys. All in favor (Board Member Fuks not in attendance at this time).

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**National Grid, 3950 Oneida Street, New Hartford, New York. Public Hearing for a Special Use Permit** for a fence at this site. Tax Map #339.016-1-28; Zoning: C2 Commercial Retail Business. Ben Weisel, Esq. and Mr. Josh Dexter appeared before the Board.

Attorney Weisel explained the location and need for this update, and presented photos of the site. 8' chain link fence to protect the facility and public. Special Use Permit is the reason for this Public Hearing because of the district this is in, C2. He further explained how this facility supports the number of properties in this area.

Mr. Dexter explained where Junipers would be placed for privacy as this is the best location – height would be about 6'-7'. These trees wouldn't interfere with work being done at the site, and avoid underground roots.

The Board Members would like to see smaller trees on the Southwest corner to make it look better and shield this by the road. They will check with their security.

Chairwoman Mowat asked if there was anyone in attendance for this hearing – no response. The Public Hearing closed at approximately 5:45 P.M. Motion was made by Board Member John Latini III to grant the Special Use Permit for National Grid for this fence; seconded by Board Member Bill Morris. All in favor. (Board Member Fuks was not in attendance at this time).

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**National Grid, 3950 Oneida Street, New Hartford, New York. Preliminary/Final Site Plan Review** for a proposed modification to a gas regulatory station. Tax Map #339.016-1-28; Zoning: C2 Commercial Retail Business. Ben Weisel, Esq. and Mr. Josh Dexter appeared before the Board.

Attorney Weisel explained National Grid needs to update their equipment for this public utility. It is required by law to give service to all their customers – it is essential. The roof is old and the equipment needs to be replaced to current standards. Mr. Dexter explained the rebuilding of this station and they will use the same kind of materials. Discussion ensued regarding screening, which they will provide trees at the site.

Highway Superintendent Rick Sherman mentioned traffic control and an arrow board at the lanes as they will be installing a 12” distribution outlet pipe. Code Officer Booth would like to see trees on the corner also. They will check with their Security team about this.

GYMO Engineering submitted their comments on this project, which are a part of the file.

Motion was made to grant Preliminary & Final Site Plan approval to National Grid by Board Member Brymer Humphreys; seconded by Board Member John Latini III. All in favor (Board Member Fuks was not in attendance at this time).

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**Cadieux Personal Residence Trust (Nichole Roberts), 21 Sherman Circle, New Hartford, New York.** Two-lot minor subdivision. Tax Map #341.005-1-31.2; Zoning: Low Density Residential.

Town Attorney Cully reviewed this application and the descriptions correspond. This is for one parcel divided into two lots (Sherman Drive lot to be approximately 1.35 acres and Sherman Circle to be approximately 1.16 acres).

Board Member DeGironimo asked Code Officer Booth if two dwelling units are allowed on a parcel – he stated only in certain zones.

There being no further comments, motion was made by Board Member Bill Morris to approve this minor subdivision; seconded by Board Member Wilmar Sifre. All in favor.

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**Cathy Wightman & William Linke, III; 111 Merritt Place, New Hartford, New York.** Two-lot minor subdivision. Tax Map #328.020-1-17 & 16; Zoning: Medium Density Residential.

Town Attorney Cully reviewed this application – Mr. Linke’s shed is located on Ms. Wightman’s property (which was there before he purchased the house). This matter is being resolved by the applicant and neighbor.

There being no comments, motion was made by Board Member Lis DeGironimo to approve this minor subdivision; seconded by Board Member John Latini III. All in favor.

**The Meadows, 4310 Middle Settlement Road, New Hartford, New York.** Final Site Plan Review. Tax Map #328.000-2-64 & 65; Zoning: Institutional. Messrs. Paul Kruger and Jim Connors appeared before the Board.

Regarding the minor subdivision: Mr. Connors explained that the minor subdivision was approved previously and modifications were made. They are donating this land to the Town along with \$25,000 towards parkland.

They have met with Mr. John Dunkle, contract engineer for the town, regarding the Site Plan approval, which consolidates Lot 1. They increased the number of units. They also met with the County Sewer and Town regarding the infiltration. The apartment complex is replacing all sanitary sewers on their property. They Town identified two manholes and looked at a manhole off the property. Mr. Connors believes the I & I has been utilized and Presbyterian Home will be doing their part shortly.

Chairwoman Mowat stated OC Department of Water Quality & Water Pollution did testing. They determined there was enough for this property. Inflows are occurring and they met with the Town Supervisor, Town Attorney, etc. to get some clarification. The Presbyterian Home has been doing testing. The Sewer Department doesn't believe it is their problem, but there is extra flow coming in and doesn't know where it is coming from. The actual project will be reducing the flow.

Highway Superintendent Rick Sherman hired a sewer contractor and we are going to grout two manholes. He wants to get them sealed up. Presbyterian Home did comment as the problem is theirs and they are fixing it. He also stated back in 2011, 2010 lines were fixed and repointed. He said the two manholes and the water is what they are looking at and they will take care of it. He referred to the area of Cherrywood , Applewood and Special Metals.

Board Member DeGironimo questions capacity – check letter from OC Department of Water Quality etc. There is no I & I from this project. Also, there are no sanitary sewers under the creek – reducing by 4800 gallons a day from what is there now.

Board Member Fuks asked who is responsible for the CMOM program – does the Town take a lead or Oneida County – Mr. Sherman said Oneida County does. The Town is acceptable for the developer but it is the Town's responsibility for the system itself. Mr. Fuks is concerned with the amount of I & I but the County should be addressing it and we shouldn't hold the developer responsible.

Note: Mr. Dunkle couldn't be here this evening but he reviewed this project and addressed the flow as well as other things. The Town and County worked on this as well as representatives. (Mr. Dunkle's letter has been made a part of this file).

Town Attorney Cully stated one of the suggestions was the Pre-development Agreement contain a mechanism for maintenance to comply with 227 DEC guidelines, a licensed engineer to retain to the Town every five years and he feels this should be part of any approval.

Motion was made by Board Member John Latini III to close SEQR with a negative declaration; seconded by Board Member Brymer Humphreys (this is to include the approval for the consolidation of the lots as well). All in favor.

Motion was made to grant Final Approval to The Meadows subject to the Pre-development Agreement to cover the requested items submitted by Mr. John Dunkle, contract engineer for the Town; seconded by Board Member Bill Morris. All in favor.

The two-lot subdivision has to use the area in the wetlands and restrict any future development. This gives the Town access to Mudd Creek.

Motion to approve the two-lot subdivision as modified by Board Member Lis DeGironimo; seconded by Board Member Wilmar Sifre. All in favor.

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**Heartford Luxury Apartments LLC, 161 Clinton Road, New Hartford, New York.** Amendment to site plans. Tax Map #328.000-2-80. Chairwoman Mowat explained that this item isn't going to be addressed this evening.

As a note: Board Member DeGironimo suggested that in reviewing plans with projects for an amendment to final, we should see what was approved and what is being changed. The Board Members agreed.

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**Parisi project, Commercial Drive, New Hartford, New York.** Amendment to plan. Tax Map #317.017-4-21.1; Zoning: C1 Retail Business. Mr. Ray Trotta appeared before the Board.

Mr. Trotta explained there is a minor amendment to the final plan. There is a loss of a tenant agreement with Starbuck's; removal of a drive-thru, modifications to parking and circulation, and building footprint. He indicated on a map where the area of the coffee shop was and where Well Now and Aspen Dental is now located. They are going to have a retail space available. He was made aware of the difference of parking regulations and explained, i.e. shopping plaza and square footage requirements. They got rid of the double drive lane. There is now a decrease in impervious area. Parking is now 83 spaces, previously 89. The NYSDEC is still looking at some mitigation. If they needed an area, they can accommodate it. There is much less impact. However, they would like to maintain this plan as presented. They do not have a tenant now but working on it. The fire marshal will service it. The southwest corner is now striped. There isn't a curb there now. A fire truck can be turned at this site. This site can be serviced.

Chairwoman Mowat stated that formerly Barton & LoGuidice, former contract engineers, looked at this. Now Brian Madigan of GYMO has reviewed it. New York Mills is the fire department for this jurisdiction. If there is a fire, they need to get behind the building. The original approval had the one way driveway and it was confusing. This new concept makes more sense. Two fire hydrants are still being placed. Code Officer Booth asked how much of the site work is going to be done and will it include the clearing up of the flood plain issue. Mr. Trotta said the NYSDEC has a letter prepared but it isn't sent out yet. They have what they want but it isn't discussed yet with them. During construction, there was a situation with the flood zone. There is nothing different but they didn't acknowledge it. They have made reparations to the area but NYSDEC hasn't responded yet.

Chairwoman Mowat asked if this amendment can be approved without the NYSDEC response – Town Attorney Cully said he feels we can approve it as shown now. Mr. Madigan had a conversation with

NYSDEC and their response was nothing that they were going to do with this that should affect the Town's decision. Mr. Trotta said the SWPPP checked out.

Highway Superintendent Rick Sherman asked if there was any time table to put the main in? – Mr. Trotta said there was some discussion about existing service and he will contact him shortly about it. Mr. Sherman said it is the Water Board and he will discuss it with them also.

NYS DOT has everything they need. Also, they will be getting their utility permit – the water meter is installed.

Board Member Fuks is concerned about the flood plain encroachment. NYSDEC hasn't given them an answer yet. The Town has an obligation to the Building Code. His concern is to get a letter from NYSDEC. Mr. Trotta has brought up to the NYSDEC a retaining wall and they will get back to him. They are ready to go, just waiting for the NYSDEC to get back to them. The original application was distributed to all agencies with zero comments at that time. This is an amendment to final, which was approved and NYSDEC was notified.

Also, what about the Town's flood plain permit. Town Attorney Cully said Mr. Trotta will have to deal with this. He is only amending to reduce the size of one of the buildings, basically.

Board Member DeGironimo still thinks the circulation isn't the best.

There being no further comments, motion was made to grant Amendment to Final for the Parisi project by Board Member Bill Morris; seconded by Board Member Wilmar Sifre. All in favor.

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Town Board referral to Planning Board for approval of the **PD Overlay District for Woods Road** housing project. Chairwoman Mowat and Town Attorney Cully explained the Town Board and Planning Board's participation with this project. In attendance: Mr. Allen Handelman, Vice President of Development for Conifer Realty; Mr. Michael Birkby, Project Director/Conifer Realty; Mr. Matt Tomlinson, Civil Engineer, Marathon Engineering; and Mr. Jerry Goldman, Land Use Attorney, Woods Oviatt Gillman LLP.

Town Attorney Cully explained the PDD overlay district and procedure in the Town's Ordinance and to allow the Town Board to be Lead Agency under SEQR. The Planning Board makes a recommendation to the Town Board to approve or disapprove this application. The Town Board schedules the Public Hearing and the Planning Board would do a final site plan approval if the overlay district is approved by the Town Board. The applicant has set forth each of the criteria on Page 3 of their application and have answers each of the questions. Discussion ensued regarding Lead Agency status.

Mr. Birkby explained the layout of the proposed development across from Ariana Lane. 20 acres would remain commercial by Seneca Turnpike but wouldn't remain under Conifer. They are not doing an overlay in this area and they will do a subdivision showing that 20 acres. Code Officer Booth felt this would be critical before final approval for the subdivision.. He addressed the number of units, community building, parking, sidewalks, walking trails and lighting as mentioned in his application, as well as indicated this is mixed income. They will maintain private hydrants.

Board Member DeGironimo mentioned the distance for parking by Building 5. – this will be looked at down the line. She also mentioned that Mr. David Jones of the Mohawk Valley Water Authority wanted them to know they need water main frontage – the applicants knew this.

Town Attorney Cully mentioned the unique feature of the pond, also the community center. Also, they will provide amenities for residents, i.e., playground, walking trails and proposing storm water retention.

Highway Superintendent Sherman mentioned possible Town expense to put in a main sewer towards Rt. 840 with manholes and bringing it down to Lowe's. This would need a pumping station but it would be taken care of by the developers. (Note: as of this date, October 25, 2019, the Town is not going to proceed at their expense).

Mr. Goldman displayed a map of the area remaining as open space – this will be preserved. He doesn't feel they will have any significant SEQR comments. He stated the next applicant who comes in will have to go through a full SEQR regarding the 20 acres left. He referred to the Town's Comprehensive Plan and talked about the five criteria. A traffic report was done by GTS, which states this project will not tax the traffic in this area.

Code Officer Booth mentioned that there is a very limited High Density Residential zone in the Town.

Discussion ensued regarding what this project offers, and also Lead Agency status. Town Attorney Cully referred to the next meeting dates for the Town Board and the timeframe for initiating this project. He also referred to Article VII of Chapter 118 of the New Hartford Town Code, which addresses certain criteria.

It is the finding of the Planning Board as follows:

- 1) The proposed Plan preserves natural habitats, trees, outstanding natural topographical and geological features and prevent soil erosion; all Board Members in agreement
- 2) The proposed Plan incorporates the existing natural and man-made environment into the design; all Board Members in agreement
- 3) The proposed Plan accomplishes a purpose beneficial to the Town that cannot be accomplished through the application of conventional zoning; Board Member Fuks is one member not in agreement; Item #3 Board Member Fuks had concerns that it is not clear about presentation in the application to show this substantiates rezoning. He believes there isn't enough information. He feels it is a zone change worthy of additional submittals.
- 4) The proposed Plan creates an environment which is more desirable than that possible through the application of conventional zoning; Board Member Fuks is one member not in agreement as he feels the applicant hasn't shown due diligence;
- 5) The proposed Plan demonstrates a creative use of the land and related physical development which allows an orderly transition of land from one use to another; Board Member Fuks feels

the application is incomplete – there are elements missing. He feels we are obligated to follow SEQR as part of the application. He doesn't believe the application has gone far enough to make a determination. Chairwoman Mowat agrees with Board Member Fuks. He feels it is an excellent project but feels we need to take a good look at the Zone Change. Board Member DeGironimo feels the Town Board can approve, disapprove, or modify issues that incorporate our concerns. The Board Members further discussed possible modifications.

Mr. Birkby doesn't know if they need to put it in writing as part of this Letter of Intent. This was done in a long EAS form. If this is required in writing to the Town, they will honor it and get it on the record. Board Member DeGironimo left the meeting at approximately 7:25 P.M. She is in support of the modifications.

Attorney Cully then polled the Board Members as to whether the proposal complies with the objectives of the Town Comprehensive Plan; meets the intent and objectives of the PDD; is conceptually sound and conforms to accepted design principles; has adequate services and utilities; and will not adversely impact traffic. The Board Members answered in the affirmative.

**\*BE IT RESOLVED**

Therefore, it is the Planning Board recommendation that the application be APPROVED with modifications.

Board Member Fuks feels the primary concern is the character of the area. We need to add something to this. He still feels the transition from the existing zone to the new zone hasn't been addressed. It still needs some other mechanism for a transition in that area. He hasn't seen an orderly transition in this area to go to the PDD.

Chairwoman Mowat referred to the traffic study and there had been some concerns 15 years ago in this area. Mr. Birkby feels this has been addressed in their conclusions. They will provide whatever the Town Board requires.

Motion was made by Board Member John Latini III to approve the Findings set forth in this memorandum as modified and recommend to the Town Board the PDD overlay be approved with modifications; seconded by Board Member Brymer Humphreys. All in favor.

Town Attorney asked the Board Members if they wanted to refer to other criteria and whether it meets the obligation and concept found that traffic will not have an adverse impact. Everyone agrees that it is conceptually sound. Utilities? Board Member Fuks does not agree; Traffic? Board Member Fuks does not agree – there was no level of service presented. Mr. Tomlinson said they can work on this.

The Town Board will be notified by Secretary Dory Shaw.

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2 Ellinwood Drive, New Hartford, New York update. County and State agencies have responded to their application with no recommendations.

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NOTE: THE NEXT Planning Board meeting is TUESDAY, NOVEMBER 12 AT **6:00** P.M.

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Motion to adjourn was made by Board Member Brymer Humphreys; seconded by Board Member Julius Fuks, Jr. All in favor.

There being no further business, the meeting adjourned at approximately 7:40 P.M.

Respectfully submitted,

Dolores Shaw, Secretary  
Town of New Hartford Planning Board.

dbb