

**TOWN OF NEW HARTFORD SPECIAL PLANNING BOARD MEETING
MINUTES OF TUESDAY, SEPTEMBER 29, 2009
NEW HARTFORD PUBLIC LIBRARY, #2 LIBRARY LANE
DOWNSTAIRS MEETING ROOM
NEW HARTFORD, NEW YORK**

The Special Meeting was called to order by Chairman Jerome Donovan at 5:30 P.M. at which time the Pledge of Allegiance was recited. Board Members present were Bob Wood, Julius Fuks, Ellen Rayhill (Mrs. Rayhill arrived at 5:45 P.M.), Peggy Rotton and Brymer Humphreys. Also in attendance was Town Planner Kurt L. Schwenzfeier, AICP; Town Engineer John Meagher; Codes Officer Joseph Booth; Councilwoman Christine Krupa; Councilman David Reynolds; Councilman Richard Woodland; Police Chief Raymond Philo, and Dory Shaw, Secretary.

Board Members received a copy of the draft minutes of the September 14, 2009 meeting. Board Member Brymer Humphreys stated he abstained from voting on the application of Mr. Ralph Humphreys at the September 14, 2009 meeting – this has been corrected. Motion was made by Board Member Peggy Rotton to approve these minutes as noted; seconded by Board Member Brymer Humphreys. All in favor.

Chairman's Report: Chairman Donovan referred to his September 22, 2009 letter to the Town Board (also signed by Codes Officer Joseph Booth, Planner Kurt Schwenzfeier, and Engineer John Meagher) regarding funding in the 2010 Town budget for Zoning Map and Zoning Text Amendments associated with the 2007 Comprehensive Plan update. This is to ask the Town Board to retain \$75,000 in the 2010 budget for these updates. He stated it is being retained in the budget.

Business Park Review Panel had been working with the Town Board and the developer of the Business Park relative to a presentation that the Town Board had indicated they were going to hold to provide the public on various options for a break in access on Route 840. This may take place in November at the earlier.

DEC Consent Order: The Town Board last week has adopted the necessary resolution to create the sewer credit bank approved by the County – we need to hear back from the County and then be able to start reviewing some projects that we held up until approvals were in place.

Minor Subdivision Application Review:

Mr. Scott Davies, proposed four-lot subdivision on Mallory Road; Tax Map 350.000-2-31.1; Zoning: Agricultural. This application was tabled at the September 14, 2009 meeting for additional information. Mr. Davies appeared before the Board.

The Town Engineer had requested additional information, which was received, reviewed and approved.

Town Planner Schwenzfeier explained the application/location for the four-lot subdivision. County 239 Planning Review, County DPW 239K Review and also notification from the Town of Frankfort. There are no negative impacts. Permits are required for any driveway or curb cuts from the County DPW.

Motion was made by Board Member Peggy Rotton to declare a Negative Declaration; seconded by Board Member Ellen Rayhill. All in favor.

Motion was made by Board Member Bob Wood to grant Preliminary and Final approval for this subdivision; seconded by Board Member Brymer Humphreys. All in favor. This motion is amended by motion of Board Member Brymer Humphreys; seconded by Board Member Bob Wood to include and authorize the Chairman to sign the map dated December 23, 2003, revision date of August 31, 2009 – survey by Christopher Nash showing lands owned by Estate of Earl D. Prescott and Scott and Christine Davies. Vote taken:

Chairman Jerome Donovan – yes
Board Member Bob Wood – yes
Board Member Julius Fuks – yes

Board Member Peggy Rotton – yes
Board Member Ellen Rayhill – yes
Board Member Brymer Humphreys – yes

Motions **approved** by a vote of 6 – 0.

Chairman Donovan stated that Vice-chairman Bob Wood would be able to sign this subdivision in his absence.

Public Hearing: **Mr. Larry Adler/Cameron Housing, LLC, The Cottages at Cedarbrook**. for a **Major 44-lot Subdivision, Higby Road and Mohawk Street**; Tax Map #340.000-2-21.4; Zoning: Planned Development Institutional. Messrs. Larry Adler, and Richard Wilson, CEO of Charles T. Sitrin Health Care, appeared before the Board. (The Public Hearing commenced at 5:40 P.M.).

Chairman Donovan noted that the Legal Notice was published on September 18, 2009. He explained the purpose of this hearing as follows:

SEQR was conducted when the Sitrin Health Care came before this Board for Phase I and II 6 years ago. This subdivision was part of that approval. On November 18, 2003, this Board conducted a public hearing as part of the SEQR process. In addition, the Town Board conducted a separate public hearing on November 20, 2002 when it considered and approved re-zoning approximately the 209 acres from RA2 and LDR to PDI. During the course of those hearings testimony was received from residents on potential environmental impacts including, traffic, storm water, sewer, and public safety. All were considered and mitigated where necessary and final site plan approval was subsequently granted by this board.

He explained further that tonight's hearing is required by Town Code, as the proposed subdivision is defined as a major subdivision. In essence the applicant is re-subdividing building into triplexes and duplexes at the Cottages solely for tax purposes. Residency is restricted by covenant to persons 55 years of age and older. Housing will be privately owned and subject to real property taxation. The subdivision of these units was fully contemplated at the time of the final site plan approval for Phases 1 and 2. Nothing associated with tonight's hearing changes any of those approvals or conditions thereof in any way, shape or manner.

At this time Mr. Larry Adler, was introduced as a principal of Cameron Housing, owners of the development, and available to address any further description of the development and the subdivision application.

Chairman Donovan recognized Police Chief Ray Philo to address traffic and recent accidents in this vicinity. Chief Philo stated that he met in partnership with NYSDOT and the Highway Superintendent to discuss traffic, etc. He referenced the accident at Sitrin Lane and Higby Road on August 2, 2008. He stated that was a personal injury accident and the cause was failure to yield the right-of-way. Someone pulling out from Sitrin Lane to Higby Road – it was human error. He referred to reviews made at this site and also the manual with guidelines used to deal with safety issues. Some things were identified to increase site distance, especially looking east on Higby Road. He also referred to work Oneida County did regarding the cutting back of banks and that this intersection meets engineering standards. Also, we have been working with the developer and owner as well as the Town and National Grid to increase traffic safety of that new intersection with lighting.

Chairman Donovan referred to the Planning Board review in 2003 of this project where traffic/speed limit was addressed. He remembers this was looked into by NYSDOT. Chief Philo said NYSDOT sets the speed on their highway. Whenever a development occurs, items are reviewed. For example, he is appearing before the Town Board regarding Mohawk Street asking NYSDOT to reconsider the speed limit there as there

has been more development in this area. He reiterated that NYSDOT does the review regarding speed, etc. – this is not a Town function.

Chairman Donovan referred to an email received from Sidney and Mary Jane Perry, 415 Higby Road, New Hartford expressing their concerns regarding storm water. This will be made a part of the file.

Chairman Donovan asked if there was anyone present to address this application:

-Mr. Gabe DiPietro, 438 Higby Road. He suggested that the speed limit be looked at again in this area. He referred to speeders on Higby Road who don't obey the speed limit. He also asked why he received a notice of this hearing if it was already approved. Chairman Donovan explained the process to Mr. DiPietro, and how much work went into the Planning Board review of this project. Mr. Adler has come to this Board because they are dividing the buildings into separate taxing units.

-Dr. Albert Shaheen, Wadsworth Lane East. He agrees about the traffic situation that exists but felt that the Sitrin Home has had no significant impact on this. He recognized the good work done by the Sitrin Health Care facility, and would like to see a more streamlined planning review process for this facility as they incur costly legal fees, construction costs, as well as planning costs.

Motion was made by Board Member Peggy Rotton to close the Public Hearing at 6:05 P.M.; seconded by Board Member Brymer Humphreys. All in favor.

Motion was made by Board Member Peggy Rotton to authorize the Chairman to sign the map dated August 14, 2008, revised January 8, 2009 and also grant Preliminary and Final Subdivision Approval;

Mr. Adler mentioned he thought there was a map with a later date on it – he and the Town Engineer will look into this.

Motion seconded by Board Member Bob Wood (Mr. Adler to contact the Town Engineer for clarification of the map). Vote taken:

Chairman Jerome Donovan – yes	Board Member Peggy Rotton – yes
Board Member Ellen Rayhill – yes	Board Member Bob Wood – yes
Board Member Brymer Humphreys – yes	Board Member Julius Fuks – yes

Motion **approved** by a vote of 6 – 0.

Nonconforming Structures – proposed change to Code Section 118-69. Codes Enforcement Officer Booth appeared before the Board.

This would be a recommendation from the Planning Board to the Town Board to amend the Town Code. The purpose of this change would be to correct some inconsistencies with our existing Codes, specifically Sections 118-11E and 118-59A. This change to Section 118-69 would allow single family dwellings not regulated as a manufactured or mobile home situated wholly and solely within the borders of its lot description to be repaired, altered or rebuilt on its existing foundation in the event that home was destroyed by fire or other disaster. This change would make it more consistent with the existing sections of the Code, specifically 118-11E and 118-59A. It would allow people with homes in commercial zones to refinance their mortgages more easily.

Part of the problem is people living in zones where single family homes are not allowed can't get financing. If this home is destroyed by 50% you cannot rebuild now. That person is not entitled to refinance, and has possible problems with homeowners insurance. This language changes that for them. It limits the changes to single family homes of stick built – not mobile/manufactured homes. So, the changes allow a single family home to rebuild in a zone that doesn't permit it, i.e., Kellogg Road.

Chairman Donovan stated that the Town Attorney has reviewed it and has conveyed his response, which he is fine with the change. This would be a recommendation from the Planning Board to the Town Board to give consideration to change the Code in this manner. The Town Board would be required to hold a Public Hearing. There will be an opportunity for additional input.

Codes Officer Booth said this was part of the Zoning Advisory Committee work. Subsequent to that, a registered appraiser complained to the Town Board about the regulations. As it is now, it makes things very difficult for people in these homes to get refinancing.

Chairman Donovan asked, is this for any area of the Town – Codes Officer Booth said yes. As the Town has grown and expanded, zone changes occur and nothing was taken into consideration for the number of existing homes. Codes Officer Booth definitely recommends the amendment. The Board Members reviewed the language and agree. It was stated this was needed to help people/taxpayers in these areas.

Motion was made by Board Member Peggy Rotton to recommend to the Town Board that they consider amending the Town Code, Section 118-69 consistent with the recommendations of the memorandum dated July 28, 2009 to Codes Officer Joseph Booth, Town Engineer John Meagher and Town Planner Kurt Schwenzfeier from Town Attorney Jerry Green; seconded by Board Member Brymer Humphreys. Vote taken:

Chairman Jerome Donovan – yes	Board Member Peggy Rotton – yes
Board Member Ellen Rayhill – yes	Board Member Julius Fuks – yes
Board Member Brymer Humphreys – yes	Board Member Bob Wood – yes

Motion **approved** by a vote of 6 – 0. Chairman Donovan will be sending a formal recommendation to the Town Board under separate cover.

Chairman Donovan noted that on September 29, 2009 and Business Park Review Panel met for the proposed medical office building. At that meeting the panel authorized the beginning of site improvements at the site and authorized the Town Engineer to grant a grading permit. The applicant will be coming in shortly with a building plan and landscaping plan.

Also, this Planning Board approved that small section of the parcel for the medical office building. Subsequent to that, the Review Panel met and did their review of that parcel that lies in the Business Park district. In discussion with the developer, the panel recommended a sidewalk from the private driveway from the office building to Woods Park Drive. That wasn't on the plan we approved a few weeks ago. Chairman Donovan further stated he feels it is a good addition. He wanted to ask this Board if there is any concern about this.

Board Member Rotton felt it was a good idea - it will be connected to the Hartford sidewalk. She asked the Town Planner if there were any accommodations for public transportation at that site – the Town Planner said Centro isn't expanding bus routes at this time, and no funding source available at this time.

There is an Amendment to Final being requested by the Business Park Review Panel *to add the sidewalk from the private driveway to the business public driveway on the plan approved at the September 14, 2009 Planning Board meeting in the Planned Development Park zone.

Motion was made by Board Member Bob Wood to grant Amendment to Final to the proposed medical building to include the sidewalk as stated above*; seconded by Board Member Peggy Rotton. Vote taken:

Chairman Jerome Donovan – yes	Board Member Bob Wood – yes
Board Member Peggy Rotton – yes	Board Member Ellen Rayhill – yes
Board Member Brymer Humphreys – yes	Board Member Julius Fuks – yes

Motion **approved** by a vote of 6 – 0.

New Hartford Business Park, Code language. Chairman Donovan stated that Staff has been working with a sub-committee of this Board for the last couple of months to look at the Business Park District Code language. It became the subject of some concern regarding site plan review of businesses in the park since it was adopted ten years ago and the original intent never followed through by the Town. They attempted to look at the Code and revise it. At this time, Board Member Bob Wood shared with this Board what they have done. As follows:

He stated that the effective, efficient and timely review of Business Park projects are dependent on a streamlined review process with one regulatory body responsible for site plan review from start to finish.

At this time, Board Member Bob Wood thanked everyone on the Staff Sub-committee who went through pages of Codes to make them conforming.

Town Planner Schwenzfeier stated that there were some discrepancies on the map which will be corrected. He stated that this takes the Business Park Review Panel out of the picture and sends everything back to the Planning Board, which is consistent with the rest of the Code.

Board Member Wood said his sub-committee recommends that the Planning Board accept these recommendations and sent our recommendation to the Town Board. Board Member Rayhill has to abstain from voting as she did not read the document fully. Board Member Fuks looked at it and felt it is more consistent and feels it is the best way to proceed. It captures the Dept. of State's opinion and has been reviewed by legal also.

Chairman Donovan noted that in order to expedite this, it is his hope that the Town Board receive this, review it, give it to counsel to review, and schedule a Public Hearing under SEQR and get these amendments ratified before the end of the year so the Business Park Review Panel can be abolished. Therefore, this Board will be able to handle things directly and not have a dual review situation.

Town Planner Schwenzfeier stated that procedurally, the Town Board will be referring it back to the Planning Board as it is a requirement. Any changes from what transpired tonight we will have another opportunity to review it before the formal recommendation to the Town Board. He also said they would get our zoning map into a digital format for all zone amendments since 1999. The official map was not changed in 1999 so this makes it possible now.

Chairman Donovan stated that once the Town Board does decide to move forward on this, they will have a Public Hearing so the document could be changed further but at least it moves the process forward.

Motion was made by Board Member Bob Wood to refer our recommendation to the Town Board for their consideration and authorize the Chairman to send a letter to that affect; seconded by Board Member Peggy Rotton. Vote taken:

Chairman Jerome Donovan – yes	Board Member Bob Wood – yes
Board Member Ellen Rayhill – abstained	Board Member Julius Fuks – yes
Board Member Brymer Humphreys – yes	Board Member Peggy Rotton – yes

Motion **approved** by a vote of 5 – 0 (with one abstention).

Chairman Donovan presented a Resolution to put into the record to include the summary that Bob Wood provided:

WHEREAS, the effective, efficient and timely review of Business Park projects are dependent on a streamlined review process with one regulatory body responsible for site plan review from start to finish.

WHEREAS, in light of the findings and recommendations of the Counsel’s Office of the NYS Department of State (DOS), as contained in a letter, dated July 17, 2009, addressed to Chairman Donovan, and the recommendation of the Board’s Business Park Sub-committee, the Planning Board requests the Town Board enact zone map and text amendments to the Business Park District, Town Code, Section 118-41, designed to streamline the site plan review and approval process, better define zone boundaries and update permitted uses.

Therefore, the Planning Board recommends the proposed amendments which are embodied in the document titled, **Zone Text Amendment to Planned Development Park (PDP)**, dated September 29, 2009.

WHEREAS, the following is a summary of the most significant proposed changes:

- Amend the Purpose Statement to reflect private ownership, section 118.41.1
- Substitute Planned Development Park (PDP) for Business Park District (BPD)
- Amend District Uses based on expected sector demands, section 118.41.4
- Amend the Zoning Map to reflect boundaries of the proposed PDP, section 118-41.2
- Substitute Planning Board for Staff Review, section 118-41.3
- Substitute Site Plan Review , section 118, Article V for Staff Review

- Pre-existing uses – make applicable to Bulk area regulations set forth in MDR
- Amend Dimensional Standards as recommended by professional staff
- Amend Fencing, Walls and Screening to compile with section 118.59 (D) of Zoning Code
- Amend Signage and Illumination section, 118.41.9 to be compliant with current Code, section 118.53
- Eliminated definitions on longer relevant 118.41.11
- Updated Schedule of Use, Area and Bulk Regulations

Resolve that, the Planning Board strongly recommends the enactment of the aforementioned changes as expeditiously as possible, but no later than the end of the calendar year and directs the Chairman to send a letter to the Town Board requesting the aforementioned action.

Motion was made by Board Member Bob Wood to accept this draft resolution; seconded by Board Member Julius Fuks. Vote taken:

Chairman Jerome Donovan – yes	Board Member Bob Wood – yes
Board Member Ellen Rayhill – abstained	Board Member Julius Fuks – yes
Board Member Brymer Humphreys – yes	Board Member Peggy Rotton – yes

Motion **approved** by a vote of 5 – 0 (with one abstention). Note: all documents reviewed are dated September 29, 2009.

Special Use Permit for fencing at **Mr. John Shaw, 8320 Seneca Turnpike, Clinton, New York (Town of New Hartford)**. Tax Map #328.010-2-9; Zoning: Planned Highway Business.

Chairman Donovan stated that under the Town Code, fencing under a commercial district requires a Special Use Permit. This application is to accommodate screening for the widening of Route 5 and Woods Highway. This same type of application was addressed at the September 14, 2009 Planning Board meeting at 8283 Seneca Turnpike. At that time, Town Engineer John Meagher said this was the first of a few applications he expected to be referred to the Planning Board because of the reconstruction work being done at Woods Highway and Seneca Turnpike intersection. It is anticipated the Town will pay for the screening through the Highway Improvement contract, which is funded by the Business Park Pilot Agreement.

Town Planner Schwenzfeier said he would explain this in the Town Engineer's absence. The proposal is for a 56' length, 6' tall cedar fence as defined in a submittal to be placed

along the front of the property at 8320 Seneca Turnpike. This is the property where the reconfiguration of Woods Highway faces directly so any cars, especially at night with headlights, will be directed at the house. The proposal is for some shrubs/trees to be placed behind the fence. The fence may be outside the highway right-of-way. The Town Planner said it is exactly the same as the other application except a different fence.

Board Member Rotton asked if the funding is there – the Town Planner said yes. It is already in the bid contract #2 of Woods Highway Realignment. He believes there are a few more that may come in based on the removal of screening, etc.

Chairman Donovan stated that the actual installation will be coordinated and ensured that it complies with the Town Code and the Town Engineer. We are being asked to authorize the Special Use Permit so the installation of the fence and shrubs/trees can take place.

Motion was made by Board Member Peggy Rotton to approve the Special Use Permit and the fence and shrubs/trees at 8320 Seneca Turnpike; seconded by Board Member Brymer Humphreys. Vote taken:

Chairman Jerome Donovan – yes	Board Member Peggy Rotton – yes
Board Member Bob Wood – yes	Board Member Julius Fuks – yes
Board Member Brymer Humphreys – yes	Board Member Ellen Rayhill – yes

Motion **approved** by a vote of 6 – 0.

Chairman Donovan stated that this completes the public portion of the meeting. The Special Meeting ended at 6:35 P.M. The Board went into Executive Session to discuss a personnel matter at 6:45 P.M. by motion of Board Member Peggy Rotton; seconded by Board Member Brymer Humphreys. All in favor. NOTE: Board Member Peggy Rotton left the Executive Session at 7:20 P.M.

Motion to go back into the Special Meeting was made by Board Member Brymer Humphreys; seconded by Board Member Bob Wood at 8:40 P.M. All in favor (Board Member Peggy Rotton had left the Executive Session at 7:20 P.M.).

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There being no further business, the meeting adjourned at 8:40 P.M.

Respectfully submitted,

Dolores Shaw
Secretary/Planning Board

dbb