

**TOWN OF NEW HARTFORD
PLANNING BOARD MINUTES
MONDAY, MARCH 14, 2011
NEW HARTFORD PUBLIC LIBRARY – 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 Ellen Rayhill, Peggy Rotton, and Jerome Donovan. Board Members absent: Brymer Humphreys and Bob Wood. Also in attendance were Town Attorney Herbert Cully, Codes Enforcement Officer Joseph Booth, Lis DeGironimo, Town consultant/engineering, and Recording Secretary Dory Shaw.

Chairman DeLia stated for the record that there are four (4) members in attendance this evening. He explained that a total of four (4) votes would be needed for approval and it was up to the applicants whether to proceed or come back at another time with a full Board.

Draft minutes of the February 14, 2011 will be addressed at the April 11, 2011 meeting.

Public Hearing: New Hartford Veterans Memorial Park. Final Site Plan Review of a proposed parking lot at New Hartford Veterans Memorial Park, Evalon Road & Merritt Place. Tax Map #329.013-1-100; Total lot size: 3.37 Acres; lot affected: .47 Acres. Zoning: Medium Density Residential. Mr. Michael Jeffery appeared before the Board.

Discussion ensued regarding the time frame of submittal for this application. Town Attorney Cully referred to Statute 118-15 which refers to 62 days of the receipt of the application by the Planning Board for Preliminary Site Plan Review/Approval. He also referred to Section 118-16 to the taking of action within 62 days of receipt or within 60 days of Public Hearing - the language doesn't say receipt by the Planning Board. His understanding is the application goes to our Codes Officer who will make a determination as to whether or not the application is complete and it is 62 days from when he accepts the application. Codes Officer Booth stated the application was complete.

Chairman DeLia felt this was met. Mr. Jeffery stated the application was submitted in early December 2010 then scheduled for the January 10, 2011 Planning Board meeting. Attorney Cully said applicant has the right to waive the 62 days. Mr. Jeffery does not have a problem waiving this.

Board Member Donovan stated for the record: he takes issue with the interpretation as presented by the Town Attorney. He would like an independent opinion from outside counsel. He referred to the time frame for Lead Agency/SEQR. Perhaps we should not give Preliminary Approval as quickly as we have in the past. Since he has been on the Board, it hasn't been practiced in that manner. The clock does run particularly because of SEQR delays. In those cases, applicants waive their right. He referred to Section 118-24E – the clock doesn't run until before this Board not when staff determines it is complete.

Attorney Cully referred to Section 118-15 for application of Site Plan Approval, Subdivision B procedures for submittals. He also referred to Section 274A of Town Law addressing this issue. The Codes Officer authorizes whether the application is complete – Codes Officer Booth said that is correct and it wouldn't get to the Planning Board if incomplete.

Chairman DeLia felt the Town Attorney has addressed this issue and that it would not be addressed with outside counsel as Herbert Cully is the Planning Board attorney.

Board Member Donovan asked for the record why there is only one (1) Public Hearing tonight as he felt a Public Hearing should have been held for Upstate Cerebral Palsy also. Discussion ensued regarding the time frame of submittal, and what transpired during that process.

At this time, motion was made by Board Member Peggy Rotton to open the Public Hearing for New Hartford Veterans Memorial Park; seconded by Board Member Ellen Rayhill. All in favor.

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

-Mr. Tom Hulser, Evalon Road. He isn't convinced parking is needed and questions the location of the sidewalks. He feels it would be more convenient to relocate to Merritt Place for parking. Mr. Hulser said he has concerns, but not opposed.

Mr. Jeffery stated the reason for the location is that the Town owns from the sidewalk up to the biggest parcel where the sidewalks are proposed. It is more feasible to have this location.

-Mr. Brian Moore, 19 Merritt Place. He is not convinced we need parking in that area. He is opposed.

Mr. Jeffery explained the rationale involved and this is more for destination purposes. He referred to the former Police Chief who supported this concept, as well as the current Chief. He referred to the similar situation at the Rayhill Trail. This is a positive impact in the community.

There being no further input, the Public Hearing closed at 5:50 P.M. by motion of Board Member Peggy Rotton; seconded by Board Member Ellen Rayhill. All in favor.

Lis DeGironimo said SEQR responses have been addressed. They had to move some landscaping because of the water main.

Motion was made by Board Member Peggy Rotton to close SEQR with a negative declaration; seconded by Board Member Jerome Donovan. All in favor.

Motion was made by Board Member Peggy Rotton to grant Final Approval; seconded by Board Member Ellen Rayhill. All in favor.

Upstate Cerebral Palsy, 3390 Brooks Lane, Chadwicks, New York. Final Site Plan Review of a proposed 2880 square foot residential living facility at 3390 Brooks Lane. Tax Map

#349.020-1-30; Zoning: Institutional. Mr. Ed Keplinger of Keplinger Associates and a representative of Upstate Cerebral Palsy appeared before the Board.

Mr. Keplinger stated that there will be a four-car parking lot/driveway – that is the extent of parking. Nothing has changed regarding the Site Plan since the last meeting except some talk regarding the property lines for Hamilton Street and Brooks Lane, and some dialog with the Water Board with regard to the water pit.

DeGironimo stated that the original plan showed that Brooks Lane and Hamilton Place were included within the UCP property line. After further research it was determined that there is a 60-foot right-of-way on Brooks Lane, and a 3 rod right-of-way on Hamilton Place. The 3 rod right-of-way on Hamilton is called for because of Sec. 189 of the NYS Highway Law which provides that "all lands which shall have been used by the public as a highway for a period of ten years or more, shall be a highway, with the same force and effect as if it had been duly laid out and recorded as a highway and the town superintendent shall open all such highways to the width of at least three rods." The new plan shows the rights-of-way on Brooks Lane and Hamilton Place.

In order to secure water service to the site, the MVWA required the UCP to construct a meter pit as close to the intersection with Brooks Lane as possible and install backflow devices for both buildings on site. The right-of-way on Hamilton creates a sliver of property north of the road which belongs to UCP. They will construct the meter pit on this part of their property since their existing water service is in this location.

UCP must be mindful to not disturb more than one acre (they are close) otherwise a SWPPP will be required. Also they must not let the the swale cause erosion at its outlet.

UCP has satisfactorily addressed the SEQR comments.

Motion was made by Board Member Peggy Rotton to close SEQR with a negative declaration; seconded by Board Member Jerome Donovan. All in favor.

Motion was made by Board Member Peggy Rotton to grant Final Site Plan approval; seconded by Board Member Ellen Rayhill. All in favor.

Mr. David Mazloom,, Crossroads Plaza, New Hartford, New York. Preliminary/Final Site Plan Review of a proposed Urgent Care for **Faxton-St. Luke's Healthcare** (interior renovations only) **to be located in the Crossroads Plaza (formerly Pharmhouse Plaza).** Tax Map #328.000-3-16.1; Lot Size: 8.5± Acres; Zoning: Retail Business 1. Mr. Mazloom appeared before the Board with Mr. Tim Hogan, Engineer.

Mr. Mazloom explained that this is a 20,000 sf remodeling in one of his tenant spaces for Urgent Care/Faxton-St. Luke's. Because it is a medical use, it requires a Site Plan review in this zone. He is not building anything outside – no expansion of the property – interior only.

Lis DeGironimo stated this is a Type II action under SEQR because it is interior only. County Planning 239 was received with no adverse comments.

Discussion was held regarding maximum parking on this property and how parking is determined. At this time, Mr. Mazloom said he has 278 spaces. Board Member Donovan would like to address the parking lot issue and green space as this is an older plaza. He asked if there was any directional signage and if this would lend itself for the purpose to address those kinds of things, i.e., ingress and egress also.

Lis DeGironimo asked when the last time the parking lot was striped. She also asked if there is a different pattern per Board Member Donovan's comments and if Mr. Mazloom could meet with Staff before striping. Mr. Mazloom said striping was done about five (5) years ago and it will be done again this year. He would meet with Staff to address this as well as repaving and any possible reconfiguration.

Chairman DeLia said he has 32% permeable space and still has plenty of parking.

Motion was made by Board Member Peggy Rotton to grant Preliminary Approval; seconded by Board Member Ellen Rayhill. All in favor.

Motion was made by Board Member Peggy Rotton to grant Final Approval; seconded by Board Member Ellen Rayhill. All in favor.

Mr. Mazloom will be in touch with Staff regarding the plaza and their concerns.

Aldi's, Inc., to be located at **8448 Seneca Turnpike, New Hartford, New York**. Preliminary Site Plan Review of a proposed 14,993 ± square foot grocery store at the Jay-K property on Seneca Turnpike. Tax Map #328.011-1-20.1; Lot Size: 1.70 ± acres. Zoning: Retail Business 1. Mr. Chris Kamar, Engineer and Mr. Dean Kelly of Jay-K Lumber appeared before the Board.

Chairman DeLia stated that there are four (4) Board Members in attendance and they would need all four (4) votes under State Law for approval. He said they have the option of delaying this application until more Board Members are in attendance – Mr. Kamar said they would like to present their application.

He explained the type of market for Aldi's – a special use type market with low prices. The hours are 9 AM to 8 PM Monday through Saturday; Sunday from 10 AM to 5 PM. Jobs created would be about 15. They have a 25 cents cart system.

The loading dock is in the rear and the dumpster is by the loading dock. There are four (4) light poles all directed inward. They have to do some work on the hill which has a steep slope. Parking in front will have a small retaining wall. They are proposing a pylon sign which will be moved back and within Code. Mr. Kamar outlined parking for Aldi's and Jay-K. He came up with 274 required spaces and they have 282. Not counting parking in the right-of-way. He

discussed the outdoor sales in the garden center and nursery on site. In talking with the owner, they have agreed to clean the area. There is landscaping proposed along the parking – trees on most of the corners. A swale is proposed to help with the water. There is a private road accessing Seneca Turnpike. One of the improvements would be curbing – proposing two (2) access points.

Codes Officer Booth asked Mr. Kamar about the east elevation and are you showing the retaining wall from Seneca Turnpike – the answer is no. Mr. Kamar said it will only be seen from the parking lot.

Codes Officer Booth referenced the island, possible parking issues – he is very concerned about this traffic issue. The island at the lowest is chaired out – almost blocking the center lane and right lane. It won't allow a lot of vehicles to stack or use the center lane. Mr. Kamar stated it is done this way because of a utility pole on site. They are looking into what they can do with it as it feeds the entire place, but it is costly to move.

Board Member Donovan referred to ingress and there is a single lane. He is concerned about cars backing up onto Route 5. Mr. Kamar feels there is quite a distance from Route 5. The building is about 182' from the property line back. He believes 100' is what NYSDOT likes to see but he will check the traffic study. Board Member Donovan also referred to the lease lines as he feels they do not meet the zoning requirements. If it is ever to be subdivided, it is not going to meet the setbacks. Presently it does because they are just lease lines for all one property. Mr. Kamar said they couldn't fit the building without going up to the lease lines. Board Member Donovan would like to see one plat addressing the overall site. Currently there is a separate plan for parking that was photocopied onto aerial view. A suggestion was made regarding screening on top of the roof for RTU units as he feels they would be feasible from adjacent properties. Mr. Kamar asked if this was a Code requirement – it was stated no.

Codes Officer Booth addressed light poles in general as they are 23' in height overall. They haven't shown anything for light spillage. He is concerned about this height and having wash out to Seneca Turnpike. Mr. Kamar will submit something to address this. He had them run but wash won't be over the property line – he will check this.

Lis DeGironimo hasn't seen anything on the plans for retaining walls and what the parking lot would look like with retaining walls. She further addressed storm water and recommended this application be reviewed by the Town's consultant/engineer because of the significant engineering on site. She stated a consultant for engineering for this project has been approved by the Town.

Board Member Rotton addressed handicap parking as she would like to see additional spots – it is a concern of hers. Chairman DeLia asked Codes Officer Booth if the requirements has been met for handicap parking – he said yes.

Board Member Donovan asked if the Loch traffic report has been updated, and if additional acreage behind Aldi's is in that study. Mr. Kelly said it is being worked on and they are doing another study with NYSDOT's concerns, and he does not know about the additional acreage at this time. Board Member Donovan feels under SEQR because it is an adjacent lot which has

potential build out, it could have an impact on traffic and storm water. He feels under SEQR we would be conducting a segmented review. He feels the engineers have to include this parcel. Town Attorney Cully said under SEQR you can't segment and not identify what is planned for the rest of the property – a large part of that is wetlands. He suggested that Mr. Kamar may want to portion it out to wetlands, build out, etc. Mr. Kelly said there is no current plan.

Board Member Donovan asked Mr. Kelly if they could put another retail use out back – Mr. Kelly said yes. Mr. Donovan feels this would double the impacts theoretically. Town Attorney Cully said a GEIS in this area has measured all SEQR impacts. When a property was looked at, they identified it as a retail business property and future build out. Mr. Donovan still feels this should be reviewed in terms of traffic impact and storm water. Mr. Kamar does not feel this is segmented because there is nothing proposed.

Chairman DeLia stated they are separate properties. He is certain with the GEIS, it was considered the same zone as it is because of the surrounding properties. Board Member Donovan referred to another project review the Planning Board did in New York Mills and similarities.

Discussion ensued regarding the existing traffic study, level of service, and exit concerns onto Seneca Turnpike. Permeability was also addressed. Mr. Kamar said about 1.3 acres would be left for development. Out of that could be flood plain, wetlands, stream – this would require some significant review.

Board Member Rayhill asked what if that lot was owned by someone else. Mr. Donovan feels we need clarification before the applicant has the traffic study completed and other studies complete. He is not sure about the segmentation issue but feels we should evaluate its impacts with adjacent property. Chairman DeLia this is a legal issue regarding separate parcels and segmentation. If the law says that is what they have to do, he will support it.

Mr. Kamar referred to storm, water – they don't know what to mitigate until they know what they are going to do – that is not covered by any GEIS. Off site impacts were discussed and Chairman DeLia feels this is addressed under the GEIS.

Considerable discussion took place regarding Preliminary Approval and the submission of this plan for SEQR at this time. Comments were made regarding sending this out for SEQR to see how comments are addressed. Town Attorney Cully feels this can't go to the engineer without Preliminary Approval. Chairman DeLia feels we can get a much more thorough review started by granting Preliminary Approval – segmentation will come up.

Mr. Kamar felt per our Zoning Ordinance it meets the criteria. It was suggested that the applicant's attorney be made aware of this discussion tonight.

At this time, motion was made by Board Member Peggy Rotton to grant Preliminary Approval; seconded by Board Member Ellen Rayhill. All in favor.

Motion was made by Board Member Peggy Rotton to declare the Planning Board Lead Agency for SEQR; seconded by Board Member Ellen Rayhill. All in favor.

Cameron Housing LLC/Cedarbrook. Attorney Cully stated this is a correspondence item. He explained about the rezoning of this property to Planned Development Institutional in 2002 and what transpired since then. In 2004, SEQR was closed and they obtained Final Approval. At that time the application was made utilizing it as a senior living community. However, a number of submissions referred to residential housing adjacent to assisted living facility. There were subsequent modifications. Subsequently, there was a subdivision approval in 2007. This project was always talked about to be a cottages facility on the site. In 2007, there was an Amendment to Final adjusting the cottages – Cedarbrook. When it got Final Approval for the subdivision, there was talk about an age restriction having been imposed and whether or not that was permissible under Federal Law. There was discussion about 55 years of age and older – Sitrin wanted this restriction. The entire project was approved in 2004 and it wasn't noticed until 2009 about the 55 years and older. There is a question whether this was a limitation on the property to 55 years and over.

Mr. Larry Adler, developer, was present with Ms. Patti Hayes of Sitrin. Miss Hayes said in 2002 the intent for the assisted living was for seniors and others open to other ages. The 55 age, as she understands it, was a deed restriction imposed to Mr. Adler's subdivision – it wasn't brought to the Planning Board – it was their deed restriction by Sitrin. Sitrin recently said they would refile a corrective deed to take off the 55 and older. Mr. Adler is looking for a clarification regarding the age limit.

Board Member Donovan's recollection is Sitrin always viewed this as a senior development. The cottages were always going to be 55 and older. But this is a deed restriction. Chairman DeLia said the approvals didn't reflect any conditional approval. There is nothing on record from the Planning Board on the age limit.

Town Attorney Cully wanted to bring this to the Board's attention. It was stated that it was a deed restriction by Sitrin, and Mr. Adler is released from the age restriction - it will be recorded in the Planning Board minutes this evening as such.

There being no further discussion, the meeting adjourned at 7:20 P.M.

Respectfully submitted,

Dolores Shaw
Recording Secretary

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