

WAYNE COUNTY PLANNING BOARD

MINUTES

June 26, 2019

Chairman, Rob Burns called the June meeting of the Wayne County Planning Board to order at 7:00 p.m. in the Wayne County Office Building in Lyons, New York.

Board Present: Ron Baker, Mert Bartels, Rob Burns, Joe Catalano, Bob Hutteman, Matt Krolak, Larry Lockwood, Larry Ruth, Ron Thorn

Staff: Bret DeRoo, Tracy Lambie

MAY 2019 MINUTES

Action – Approve

Motion – Mr. Bartels

Second – Mr. Baker

Abstention – Mr. Catalano

Motion carried

ZONING AND SUBDIVISION REFERRALS

The following 5 referrals were reviewed and determined to be of no intermunicipal or countywide impact:

Action – Return these referrals to the Towns/Villages to be handled as local matters

Motion – Mr. Hutteman

Second – Mr. Krolak

Opposed –

Abstention –

Motion carried

Terry Maeske, 7296 Phelps Avenue, T. Huron

Special Permit, Tax Map Ref. No. 72118-06-413922

Short term rental of cottage, normally one week or less.

Comments:

- 1) property use/development should proceed in a manner that helps it remain compatible with surrounding land uses and is also aesthetically pleasing through use of items such as property maintenance, fencing, berms, landscaping, etc., particularly given that the parcel is located near Great Sodus Bay,
- 2) on-site traffic circulation, parking area(s) and total number of available parking spaces should be determined/delineated,
- 3) emergency service vehicle access should be planned and provided for,
- 4) the rented structure(s) must meet applicable NYS Uniform Fire Prevention and Building Codes given the proposed use,
- 5) the onsite wastewater treatment system must meet applicable local and NYS codes,
- 6) rental cottage agreement details and/or property modifications should be considered to help promote compatibility and avoid conflicts with surrounding neighbors/land uses (e.g. clearly delineate property boundaries and ensure that renters understand where they are, enforce no trespassing rules, etc.) and
- 7) the property owner(s) should be aware that portions of the parcel may contain (or be near) National wetland area (approximate mapping available online at <http://www.dec.ny.gov/gis/erm/>), as well as FEMA flood zone area (approximate mapping available online at <https://msc.fema.gov/portal>), and any planning/development should be done in accordance with applicable regulations.

Dussman Residence, 2025 Magog Road, T. Macedon
Preliminary/Final Site Plan, Tax Map Ref. No. 63111-00-337113
Single family residence.

Comments:

- 1) the proposed septic system must meet applicable local and/or New York State (e.g. Department of Health, Uniform Fire Prevention and Building Code) codes/regulations,
- 2) the proposed driveway should meet AASHTO (American Association of State Highway and Transportation Officials) recommendations for sight distance,
- 3) development should be done in a manner that keeps it compatible with surrounding land uses and is also aesthetically pleasing through use of items such as building design/materials, property maintenance, fencing, berms, landscaping, etc.,
- 4) development must meet NYS Uniform Fire Prevention and Building Codes, including driveway design, that includes provision for emergency service vehicle access (if applicable),
- 5) the applicant(s) should be aware that portions of the parcel may contain (or be near) National wetland area and NYS Department of Environmental Conservation wetland area (approximate mapping available for both online at <http://www.dec.ny.gov/gis/erm/>) and any planning/development should be done in accordance with applicable regulations and
- 6) future plans (if any) for the total acreage should be considered.

Steven Schutt Zone Change, 4017 N. Main Street, T. Marion
Amend Map, Tax Map Ref. No. 65114-08-973829
Change zoning from I1 to MR.

Comments:

- 1) the proposed zoning amendment should be undertaken “in accord with a well-considered plan” or “in accordance with a comprehensive plan” as referenced in the James A. Coon Local Government Technical Series, “**Zoning and the Comprehensive Plan**” (available online @ https://www.dos.ny.gov/lg/publications/Zoning_and_the_Comprehensive_Plan.pdf) and
- 2) the Town attorney should review and approve the proposed amendment.

For reference, the following documents may also contain useful information and are also available from the NYS Department of State on their website as follows:

1. “Creating the Community You Want: Municipal Options for Land Use Control” @
https://www.dos.ny.gov/lg/publications/Creating_the_Community_You_Want.pdf

2. “Questions for the Analysis and Evaluation of Existing Zoning Regulations” @
https://www.dos.ny.gov/lg/publications/Evaluating_Zoning.pdf

Nancy Dickens Washburn, 4745 Brick Schoolhouse Road, T. Rose
Area Variance/Use Variance, Tax Map Ref. No. 72115-00-465714
Requesting to place 2nd dwelling (840 sq. ft.) on parcel, 450' road frontage available, need 400' for each dwelling.

Comments:

- 1) the hardship criteria (rules/tests) that are required to grant the use variance must be substantiated at the local level and
- 2) the minimum variance necessary should be considered.

For reference, the NYS Department of State has a useful reference document, “**Zoning Board of Appeals**”, that is available on their website @ https://www.dos.ny.gov/lg/publications/Zoning_Board_of_Appeals.pdf.

Details regarding each of the use variance “hardship rules/tests” can be found in this document.

The Board felt the following are additional comments to consider should the use variance be approved at the municipal level:

- 1) all necessary local, federal and state recommendations/regulations and approvals/permits must be obtained/complied with (e.g. NYS Uniform Fire Prevention and Building Codes, NYS Department of Health - wastewater treatment system),
- 2) the driveway(s) should have sight distances available that meet AASHTO (American Association of State Highway and Transportation Officials) recommendations and should include provision for emergency service vehicle access, if applicable, per local and/or NYS Uniform Fire Prevention and Building Code requirements,
- 3) local emergency service providers should review plans to ensure that proposed development can be accessed and served (e.g. ambulance, police and fire),
- 4) property use/development should proceed in a manner that helps it remain compatible with surrounding land uses and is also aesthetically pleasing through use of items such as property maintenance, fencing, berms, landscaping, etc. and
- 5) the property owner(s) should be aware that portions of the parcel may contain (or be near) National wetland area and NYS Department of Environmental Conservation wetland area (approximate mapping available for both online at <http://www.dec.ny.gov/gis/erm/>) and any planning/development should be done in accordance with applicable regulations.

RC Property Management, 6283 Route 21, T. Williamson
Area Variance, Tax Map Ref. No. 65117-12-937669

Single family residence.

Comments:

- 1) the hardship criteria (rules/tests) that are required to grant the area variances must be substantiated at the local level and
- 2) the minimum variances necessary should be considered.

For reference, the NYS Department of State has a useful reference document, “**Zoning Board of Appeals**”, that is available on their website @ https://www.dos.ny.gov/lg/publications/Zoning_Board_of_Appeals.pdf.

Details regarding each of the area variance “hardship rules/tests” can be found in this document.

The following are additional comments that were made by the Board regarding the proposal should the area variances be approved at the municipal level:

- 1) development should be done in a manner that helps it remain compatible with surrounding land uses and is also aesthetically pleasing through use of items such as building design/materials, property maintenance, fencing, berms, landscaping, etc., particularly given that the parcel is located on the highly traveled Lake Ave./NYS Rt. 21. The applicant/owner may have building design and material options available that meet the character the town desires for this area,
- 2) traffic generating characteristics of the proposal should be considered, including, but not limited to the following: driveway location, building area, parking area(s), driveway sight distances (i.e. they should meet American Association of State Highway and Transportation Officials - AASHTO recommendations) and on-site traffic circulation. There should be no need to back a vehicle onto NYS Rt. 21 and
- 3) all necessary local, federal and state recommendations/regulations and approvals/permits must be obtained/complied with (e.g. NYS Uniform Fire Prevention and Building Codes, including emergency vehicle access, if applicable).

Delaware River Solar, LLC, 6686 Furnace Road, T. Ontario
Special Permit/Preliminary/Final Site Plan, Tax Map Ref. No. 63118-00-717193

2.975 MW AC community solar on 16 acres. Dan Compitello of Delaware River Solar presented. Landowner Steve Haak was also available for questions.

Action – Motion made to approve with Comments - **motion did not carry**

Motion – Mr. Ruth

Second – Mr. Hutteman

Opposed – Mr. Thorn, Mr. Krolak, Mr. Baker

Abstention – Mr. Catalano

Motion did not carry

After more discussion, no additional motion was made.

Comments:

- 1) development should be done in a manner that helps it remain compatible with surrounding land uses and is also aesthetically pleasing through use of items such as system design/materials, fencing, berms, landscaping, etc.,
- 2) it should be confirmed that the solar panels will not produce a glare (possibly impacting neighboring property owners, motorists, etc.),
- 3) a photovoltaic system decommissioning plan should be intact,
- 4) the access driveway should have sight distances available that meet AASHTO (American Association of State Highway and Transportation Officials) recommendations,
- 5) all necessary local, federal and state recommendations and approvals/permits must be followed/obtained (e.g. NYS Uniform Fire Prevention and Building Codes, NYS Department of Environmental Conservation – Phase II stormwater management and erosion and sediment control regulations, NYS Department of Agriculture and Markets - “Guidelines for Agricultural Mitigation for Solar Energy Projects (Revision 4/19/2018)”, NYS Office of Parks, Recreation and Historic Preservation/SHPO, US Army Corps of Engineers and US Fish and Wildlife Service regulations),
- 6) the property owner(s)/applicant should be aware that portions of the parcel may contain (or be near) both National and NYS Department of Environmental Conservation wetland areas (approximate mapping available online at <http://www.dec.ny.gov/gis/erm/>), as well as FEMA flood zone area (approximate mapping available online at <https://msc.fema.gov/portal>), and any planning/development should be done in accordance with applicable regulations and
- 7) future plans (if any) for the total acreage should be considered.

For reference, the following are items that the Board feels could be considered when reviewing PV system applications (Source: NYS Department of State, Division of Local Government Services, “Solar Energy Regulation” presentation):

Compatibility with neighborhood character:

1. Do not negatively impact adjacent uses
2. Visually compatible
 - a. For example, potential impact includes glare or reflection, which might be nuisance to other property owner or impair visibility of motor vehicle drivers
3. Use sensitivity especially in areas containing unique architectural styles or historic structures

Review elements:

- 1) Access to solar energy
- 2) Casting shadows
- 3) Blocking view sheds
- 4) Causing glare
- 5) Rain run-off

Decommissioning provisions:

- Some municipalities address abandonment, decommissioning or “cessation of activity” within their regulations

- For example, “Must ensure site will be restored to useful, nonhazardous condition, including completion time frame for complete removal of collectors, mounts and other associated equipment and facilities”
- Some require decommissioning plans, especially for commercial scale projects

Also for reference, the Board is seeking additional information to help them assess/consider the relationship between items such as agricultural and farmland protection efforts (with particular consideration given to farmland that is classified as “prime” and/or of “statewide importance”), NYS clean energy goals, comprehensive plans/local zoning regulations and details regarding the proposed photovoltaic (PV) system development. Since late 2016, the WCPB has now reviewed approximately ten (10) similarly sized PV systems (2-4 megawatt) from municipalities across the county. In their review, the Board has noticed that several, but not all, of the proposals were for systems that would be sited on active farmland. They understand some municipalities, such as Ontario, permit solar developments on farmland, but they are still interested in continuing to explore development options that would help minimize farmland impacts. As a note, the NYS Department of Agriculture and Markets as well as the American Farmland Trust offer guidance documents regarding ways to protect farmland while permitting solar development.

Given discussion with PV system developers, there are site-specific design requirements and therefore certain parcels/sites have attributes that are better suited for development than others. Attributes that have been referenced include, but are not necessarily limited to proximity to three-phase electric power as well as utility company substations. The substations then need to have the capacity to handle the generated power. Reportedly, an agency such as NYSERDA, and possibly the applicable utility company, may be able to offer guidance regarding where PV systems can “tie into the grid”. If so, it could be beneficial to contact a representative from NYSERDA and/or NYSEG / RG&E to help determine where PV systems are feasible in the town and ultimately determine how much acreage/farmland will potentially be used for PV development.

James and Brenda Vice, 35-39 Water Street, T. Lyons

Area Variance, Tax Map Ref. No. 71111-09-048599

Café and General Merchandise store, request to use public parking to satisfy 9 space parking required. Architect, Dan Long presented. Applicants James and Brenda Vice were also available for questions.

Action – Approve with comments

Motion – Mr. Catalano

Second – Mr. Ruth

Abstention –

Motion carried

Comments:

- 1) the hardship criteria (rules/tests) that are required to grant the area variance must be substantiated at the local level and
- 2) the minimum variance necessary should be considered.

For reference, the NYS Department of State has a useful reference document, “**Zoning Board of Appeals**”, that is available on their website @ https://www.dos.ny.gov/lg/publications/Zoning_Board_of_Appeals.pdf.

Details regarding each of the area variance “hardship rules/tests” can be found in this document.

The following are additional comments that were made by the Board regarding the proposal should the area variance be approved at the municipal level:

- 1) development should be done in a manner that helps it remain compatible with surrounding land uses and is also aesthetically pleasing through use of items such as building design/materials, property maintenance,

landscaping, etc., particularly given that the parcel is located on the highly traveled Water Street/Erie Canalway National Heritage Corridor,

- 2) traffic generating characteristics of this proposal as well as adjacent/surrounding land uses should be considered, including, but not necessarily limited to traffic circulation (i.e. associated with Water Street and the access driveway), building area(s) and associated parking area(s). They should all be designed/developed and function in a manner that will provide safe pedestrian and vehicular interaction between those items as well as access to Water Street and
- 3) all necessary local, federal and state recommendations and approvals/permits must be followed/obtained (e.g. NYS Uniform Fire Prevention and Building Codes, NYS Department of Health, etc.).

Dunkin Donuts – Storage buildings, 1873 Route 104, T. Ontario

Preliminary/Final Site Plan, Tax Map Ref. No. 63117-09-171715

3 commercial storage buildings, 33,460 sq. ft.

Action – Approve with Comments

Motion – Mr. Hutteman

Second – Mr. Baker

Abstention – Catalano

Motion carried

Comments:

- 1) development should be done in a manner that helps it remain compatible with surrounding land uses and is also aesthetically pleasing through use of items such as building design/materials, fencing, berms, landscaping, etc., particularly given that the parcel is located on the highly traveled NYS Rt. 104. The developer may have building design and material options available that meet the character the town desires in that area,
- 2) traffic generating characteristics of the proposal should be considered, including, but not limited to the following: driveway location(s), building areas, parking areas, driveway sight distances (i.e. they should meet American Association of State Highway and Transportation Officials - AASHTO recommendations) and on-site traffic circulation. Proposed on-site traffic circulation, building areas and associated parking areas should be designed/developed in a manner that will provide safe pedestrian and vehicular interaction between those items as well as access to NYS Rt. 104,
- 3) all necessary local, federal and state recommendations/regulations and approvals/permits must be followed/obtained (e.g. NYS Uniform Fire Prevention and Building Codes, NYS DEC - Phase II stormwater management and erosion and sediment control regulations, NYS Department of Transportation – driveway work permit, etc.),
- 4) emergency service vehicle access should be provided and local emergency service providers should review plans to ensure that proposed development can be accessed and served (e.g. ambulance, police and fire),
- 5) outside storage should be limited (e.g. items in disrepair should not be permitted to accumulate),
- 6) all toxic/hazardous materials that may be associated with any on-site business (if applicable) should be properly stored, handled and disposed of,
- 7) future plans (if any) for the total acreage should be considered and
- 8) the applicant(s) should be aware that portions of the parcel may contain (or be near) National wetland area (approximate mapping available online at <http://www.dec.ny.gov/gis/erm/>) and any planning/development should be done in accordance with applicable regulations.

Swingly Subdivision, 7212 Fisher Road, T. Williamson

Final Subdivision Plan, Tax Map Ref. No. 64118-00-357820, 64118-00-375726

16 lot subdivision.

Action – Approve with Comments

Motion – Mr. Hutteman

Second – Mr. Krolak

Abstention –

Motion carried

Comments:

- 1) development should be done in a manner that keeps it compatible with surrounding land uses and is also aesthetically pleasing through use of items such as building design/materials, property maintenance, fencing, berms, landscaping, etc.,
- 2) screening (e.g. fence, berm, landscaping, etc.) should be used to help the proposed development remain compatible with surrounding land uses,
- 3) the proposed sanitary sewer systems must meet applicable local and/or New York State (e.g. Department of Health, Uniform Fire Prevention and Building Code) codes/regulations,
- 4) the proposed lots/development must meet applicable local, federal and New York State (e.g. Department of Health, Uniform Fire Prevention and Building Codes, NYSDEC – Phase II stormwater management and erosion and sediment control plans) codes/regulations,
- 5) the proposed driveways should have sight distances available that meet AASHTO (American Association of State Highway and Transportation Officials) recommendations for sight distance and driveway design should include provision for emergency service vehicle access (if applicable),
- 6) emergency service providers should review plans to ensure that proposed development can be accessed and served (e.g. ambulance, police and fire),
- 7) the applicant(s) should be aware that portions of the parcel may contain (or be near) National wetland area (approximate mapping available online at <http://www.dec.ny.gov/gis/erm/>) and any planning/development should be done in accordance with applicable regulations and
- 8) future plans (if any) regarding the total acreage should be considered.

Other Business:

There being no further business, Mr. Catalano made a motion to adjourn, seconded by Mr. Bartels. The meeting was adjourned at 8:00 PM.

Respectfully submitted,
Tracy Lambie, Secretary