

# WAYNE COUNTY PLANNING BOARD

## MINUTES

October 30, 2019

Chairman, Rob Burns called the October 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, Rob Burns, Joe Catalano, Steve Guthrie, Bob Hutteman, Matt Krolak, Larry Lockwood, Bert Peters, Larry Ruth, Ron Thorn, Jim Wedman

Staff: Bret DeRoo, Tracy Lambie

### SEPTEMBER 2019 MINUTES

**Action** – Approve

**Motion** – Mr. Hutteman

**Second** – Mr. Guthrie

**Abstention** –

**Motion carried**

### ZONING AND SUBDIVISION REFERRALS

**The following 6 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. Baker

**Second** – Mr. Peters

**Opposed** –

**Abstention** –

**Motion carried**

**Forgham Properties, LLC, 33 Forgham Street, T. Lyons**

**Final Subdivision Plan, Tax Map Ref. No. 71111-13-013498**

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0.60 outparcel subdivision.

#### **Comments:**

- 1) the proposed lots should be configured in a manner that will allow access to both by using either an existing or new driveway that meets American Association of State Highway and Transportation Officials (AASHTO) recommendations for sight distance and NYS Department of Transportation regulations for access,
- 2) the proposed lots should be configured with enough area for each lot to contain an existing and/or construct a new wastewater treatment system (or connection to municipal sewer) that will meet local and/or New York State (e.g. Department of Health, Uniform Fire Prevention and Building Code) codes/regulations,
- 3) all necessary “cross-lot easements“ should be in place to ensure that all involved businesses can maintain their function and compatibility (e.g. access/driveway, parking, utility, etc.),
- 4) 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/>) and 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
- 5) future plans (if any) for the total acreage should be considered.

#### **Proposed Local law 8 of 2019, T. Ontario**

Amend Text

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Amend Chapter 150 to allow keeping of chickens on residential properties

**Comments:**

- 1) the proposed zoning update 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](https://www.dos.ny.gov/lg/publications/Zoning_and_the_Comprehensive_Plan.pdf)),
- 2) the Town attorney should review and approve the proposed amendments (this comment is included to be consistent with proposed zoning code updates, but it is understood that the town attorney submitted this application) and
- 3) the proposed law should be reviewed by applicable NYS Department of Agriculture and Markets staff to be sure that it is consistent NY Agriculture and Markets Law.

For reference, the following documents and web link may contain useful information and are available from the NYS Department of State and NYS Department of Agriculture and Markets on their websites 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](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](https://www.dos.ny.gov/lg/publications/Evaluating_Zoning.pdf)
3. “**Local Laws and Agricultural Districts: How Do They Relate?**” @ <https://www.agriculture.ny.gov/ap/agsservices/guidancedocuments/305-a2pagePamphlet.pdf>
4. “**FREQUENTLY ASKED QUESTIONS REGARDING MANURE STORAGE IN NEW YORK STATE**” @ [https://www.agriculture.ny.gov/FAQ\\_manure\\_storage.pdf](https://www.agriculture.ny.gov/FAQ_manure_storage.pdf)
5. “**Guidelines for Review of Local Laws Affecting Nutrient Management Practices (i.e. Land Application of Animal Waste, Recognizable and Nonrecognizable Food Waste, Sewage Sludge and Septage; Animal Waste Storage/Management)**” @ [https://www.agriculture.ny.gov/ap/agsservices/guidancedocuments/305\\_a\\_Nutrient\\_Management\\_Guidelines.pdf](https://www.agriculture.ny.gov/ap/agsservices/guidancedocuments/305_a_Nutrient_Management_Guidelines.pdf)
6. New York State Department of Agriculture and Markets “poultry - related” web link: <https://www.agriculture.ny.gov/AI/AIpoultry.html>

**David C. Allen, State Route 21 N., T. Palmyra**

Preliminary/Final Subdivision Plan, Tax Map Ref. No. 65113-00-583614

2 lot subdivision, 42.412 acres to be retained, 50 acres to be conveyed.

**Comments:**

- 1) the proposed lots should be configured with enough area for each lot to contain an existing and/or construct a new wastewater treatment system (or connection to municipal sewer) that will meet local and/or New York State (e.g. Department of Health, Uniform Fire Prevention and Building Code) codes/regulations,
- 2) the proposed lots should be configured with enough area for each lot to have a driveway that meets AASHTO (American Association of State Highway and Transportation Officials) recommendations for sight distance,
- 3) future plans (if any) for the total acreage should be considered,
- 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) 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. (if applicable),

- 6) a driveway permit will need to be obtained from the NYS Department of Transportation (if applicable) and
- 7) the applicant(s) should be aware that portions of the parcel appear to contain (or be near) wetland area (approximate mapping is available for both National wetland and NYS Department of Environmental Conservation wetland area online at <http://www.dec.ny.gov/gis/erm/>) and any planning/development should be done in accordance with associated regulations (if applicable). As a note, U.S. Army Corps of Engineers and/or NYS Department of Environmental Conservation staff may be able to confirm/delineate wetland area (if any).

**BME Associates, State Route 21 N., T. Palmyra**

Preliminary/Final Subdivision Plan, Tax Map Ref. No. 65112-00-289616

2 lot subdivision, Lot 1 - 29.3 acres, Lot 2 - 5.593 acres

**Comments:**

- 1) the proposed lots should be configured with enough area for each lot to contain an existing and/or construct a new wastewater treatment system (or connection to municipal sewer) that will meet local and/or New York State (e.g. Department of Health, Uniform Fire Prevention and Building Code) codes/regulations,
- 2) the proposed lots should be configured with enough area for each lot to have a driveway that meets AASHTO (American Association of State Highway and Transportation Officials) recommendations for sight distance,
- 3) future plans (if any) for the total acreage should be considered,
- 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) 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. (if applicable),
- 6) a driveway permit will need to be obtained from the NYS Department of Transportation (if applicable) and
- 7) the applicant(s) should be aware that portions of the parcel appear to contain (or be near) National wetland area (approximate mapping is available for both National wetland and NYS Department of Environmental Conservation wetland area online at <http://www.dec.ny.gov/gis/erm/>) and any planning/development should be done in accordance with associated regulations (if applicable). As a note, U.S. Army Corps of Engineers and/or NYS Department of Environmental Conservation staff may be able to confirm/delineate wetland area (if any).

**Rodney Humbert, 3605 Lakes Corners Rose Valley Road, T. Rose**

Area Variance, Tax Map Ref. No. 73114-00-507442

15'x15' addition does not meet front setback.

**Comments:**

- 1) the hardship criteria (rules/test) 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 available, “**Zoning Board of Appeals**”, on their website @ [https://www.dos.ny.gov/lg/publications/Zoning\\_Board\\_of\\_Appeals.pdf](https://www.dos.ny.gov/lg/publications/Zoning_Board_of_Appeals.pdf).

Should the area variance be approved at the local level, then the board recommends that the following comments should also be considered:

- 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 proposed building addition design/materials, property maintenance, fencing, berms, landscaping, etc.,
- 2) the wastewater treatment system must meet applicable local and/or New York State (e.g. Department of Health, Uniform Fire Prevention and Building Code) codes/regulations (as applicable) and
- 3) proposed development must meet NYS Uniform Fire Prevention and Building Codes.

**James Hauss, 9480 Blind Sodus Bay Road, T. Wolcott**

Special Permit, Tax Map Ref. No. 78121-09-004656

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New dwelling with attached garage to replace former cottage.

**Comments:**

- 1) the proposed development should be sited/developed so they will not interfere with adjacent property owner(s) views of Blind Sodus Bay,
- 2) the proposed wastewater treatment system must meet applicable local and/or New York State (e.g. Department of Health, Uniform Fire Prevention and Building Code) codes/regulations,
- 3) proposed development must meet NYS Uniform Fire Prevention and Building Codes,
- 4) 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, fencing, berms, landscaping etc.,
- 5) development should not take place in the Blind Sodus Bay Road right of way,
- 6) 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/>) and 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) the property appears to be near NYS Coastal Erosion Hazard Area (CEHA) and any planning/development should be done in accordance with applicable regulations.

**Depew Subdivision, 8504 Wickham Blvd, V. Sodus Point**

Preliminary Subdivision Plan, Tax Map Ref. No. 71119-18-477235

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Subdivide 40x50 parcel with water access.

**Action** – Disapproval with comments

**Motion** – Mr. Guthrie

**Second** – Mr. Ruth

**Opposed** –

**Abstention** – Mr. Baker

**Motion carried**

**Comments:**

The Board felt there are other options that should be explored to help achieve the stated purpose for the proposed subdivision. Use of an easement (on the applicable portion of the existing parcel), was referenced as an example of an item that could potentially meet the applicants' intent to provide docking and off-water access to Sodus Point for family members that currently reside on Charles Point. The Board felt using a tool such as an easement could eliminate the need for creating a lot that does not meet local subdivision regulations in the residential zone and also help provide a solution for the applicants.

For reference, many of the following comments were previously made by the Board regarding another 2 - lot subdivision application that was submitted by Sodus Point for their review (several may not apply directly to this referral, but are included in an effort to be consistent):

- 1) the proposed lots should be configured with enough area for each lot to contain an existing and/or construct a new septic system (or connection to municipal sewer) that will meet local and/or NYS regulations/codes (e.g. Department of Health, Uniform Fire Prevention and Building Codes),
- 2) the proposed lots should be configured with enough area for each lot to have a driveway that meets AASHTO (American Association of State Highway and Transportation Officials) recommendations for sight distance,
- 3) the proposed lots should meet zoning regulations for lot size, potential building setbacks etc.,
- 4) future plans (if any) for the total acreage should be considered,
- 5) development must meet NYS Uniform Fire Prevention and Building Codes, including driveway design that includes provision for emergency service vehicle access (if applicable),

- 6) 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. (if applicable),
- 7) the applicant(s) should be aware that portions of the parcel appear to contain (or be near) National wetland area (approximate mapping available for both 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,
- 8) Question “12.b.” on Part 1 of the Short Environmental Assessment Form indicates that the project site is located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory. The Board felt that it will be important for this question to be addressed, possibly requiring contact with SHPO and
- 9) as you are aware, the Village is currently working on an Active Transportation Plan (ATP). Given this, the Board recommends that the Village Planning Board should take the plan/associated recommendations into consideration when reviewing the application.

**Tobin Farms, Eddy Road, T. Williamson**

Use Variance, Tax Map Ref. No. 71119-18- 65116-00-468990

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2.3 mw Community Solar project on 16 acres. Dan Compitello of Delaware River Solar and Dave Plante of Bergmann Associates presented and were available for questions. Members of the public were in attendance with one making statements to the Board.

**Action** – Disapproval with comments

**Motion** – Mr. Guthrie

**Second** – Mr. Ruth

**Opposed** –

**Abstention** – Mr. Peters, Mr. Burns

**Motion carried**

**Comments:**

The Board felt that the proposed community solar project would not be compatible with the residential “character of neighborhood” the town has planned for this area. Both the “Future Land Use” map found in the “Comprehensive Plan For The Town of Williamson, NY” (Adopted March 2010) and the adopted “Town of Williamson Zoning Map”, (Revised December 2016) illustrate municipal plans for and implementation of residential development in this area.

The Board had the following comments regarding the proposed use variance:

- 1) the hardship criteria (rules/test) 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 available, “**Zoning Board of Appeals**”, on their website @ [https://www.dos.ny.gov/lg/publications/Zoning\\_Board\\_of\\_Appeals.pdf](https://www.dos.ny.gov/lg/publications/Zoning_Board_of_Appeals.pdf) .

Details regarding each of the use variance “hardship rules/test” and the requirement that the ZBA must find that each of the elements of the test have been met by the applicant can be found in this document.

For reference, and regarding previously reviewed community solar applications, Board members have sought 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 eleven (11) 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 Williamson, permit solar developments on farmland, but they are still interested in continuing to explore development options that would help minimize farmland impacts.

Given discussion with PV system developers (as well as info found in this application packet), 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 the following: available acreage (at least 20 acres), generally flat land – free of wetlands and proximity to three-phase electric power lines as well as utility company substations that have the capacity to process the additional power. Reportedly, an agency such as NYSEERDA, 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 NYSEERDA 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.

The following is the list of nonbinding comments that the Board considered in their review (some of which were addressed in the application materials that were submitted, but are included in an effort to provide consistent comments when reviewing PV system-related applications):

- 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 Office of Parks, Recreation and Historic Preservation/SHPO, US Army Corps of Engineers and US Fish and Wildlife Service regulations),
- 6) the applicant(s) should be aware that portions of the parcel appear to contain (or be near) National wetland area (approximate mapping available for both 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

**CPK Construction Ontario Flex Park, 6208 Slocum Road, T. Ontario**

Preliminary/Final Site Plan, Tax Map Ref. No. 62117-10-327563

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5,400 sq. ft. bldg. for office space and workshop.

**Action** – Approve with comments

**Motion** – Mr. Guthrie

**Second** – Mr. Ruth

**Opposed** –

**Abstention** – Mr. Catalano

**Motion carried**

**Comments:**

- 1) proposed 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, property maintenance, etc., particularly given that the parcel is located on the highly traveled Slocum Road and adjacent to existing commercial and residential land uses,
- 2) screening (e.g. fence, berm, landscaping, etc.) should be considered/used to help the proposed development remain compatible with surrounding land uses (i.e. mitigate visual and noise impacts between this proposal and adjacent land uses - if applicable),
- 3) traffic generating characteristics of the proposal should be considered, including, but not limited to the following: driveway location(s), building area(s), 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. Proposed on-site traffic circulation, building area, associated parking area(s) and development plans should be designed/developed in a manner that will provide safe pedestrian and vehicular interaction between those items as well as access to Slocum Road,
- 4) emergency service vehicle access should be planned and provided for, including driveway design that meets NYS Uniform Fire Prevention and Building Codes (if applicable), 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) “operational noises” should be mitigated (i.e. noise generated by business activity should not impact other nearby uses - if applicable),
- 6) outside storage should be limited (e.g. items in disrepair should not be permitted to accumulate),
- 7) any toxic/hazardous materials, that are associated with the proposal, should be properly stored, handled and disposed of (if applicable),
- 8) development, including water and wastewater treatment/sanitary service, must meet all local, federal and NYS codes/regulations (e.g. Department of Environmental Conservation - Phase II Stormwater Management and Erosion and Sediment Control Regulations and other applicable regulations, Department of Health, Uniform Fire Prevention and Building Code, etc.),
- 9) security measures should be intact (e.g. the site should be lighted),
- 10) future plans (if any) for the total acreage should be considered and
- 11) the property owner(s) should be aware that portions of the parcel may contain (or be near) 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.

**Retail Store, 12635 Countryman Road, T. Butler**

Use Permit, Tax Map Ref. No. 76117-00-640166

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42'x52' Retail Store with 10'x6' opposing porch, sales/service of sewing machines, stockroom, classroom, bathroom and utility.

**Action** – Approve with comments

**Motion** – Mr. Guthrie

**Second** – Mr. Baker

**Opposed** –

**Abstention** –

**Motion carried**

**Comments:**

- 1) the board wanted to confirm that the use permit is valid for this proposed application only (i.e. sewing sales/service),
- 2) 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, building/property maintenance, fencing, berms, landscaping, etc., particularly given that the parcel is located on the highly traveled NYS Rt. 104,
- 3) screening (e.g. fence, berm, landscaping, etc.) should be considered/used to help the proposed development remain compatible with surrounding land uses,
- 4) traffic generating characteristics of the proposal should be considered, including, but not limited to the following: driveway location(s), building area(s), 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. 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 Countryman Road. The information could be useful for emergency service providers to review and know also,
- 5) 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),
- 6) 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) and
- 7) future plans (if any) for the total acreage should be considered.

**Other Business:**

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

Respectfully submitted,  
Tracy Lambie, Secretary