



NIAGARA COUNTY PLANNING BOARD

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MEETING MINUTES

Niagara County Planning Board

Monday, November 19, 2019 – 2:00 p.m.

Niagara County Center for Economic Development, Sanborn

Members Present: Bill Agronin, Walt Garrow, Joseph Kibler, Andrea Klyczek, Richard Muscatello, Thomas Ohol, James Sobczyk, Garret Meal (ex-officio)

Members Absent: William Paton, Jonathan Welka

Staff Present: Amy Fisk, Jacqueline Minicucci

1. The meeting was called to order by Chairman Kibler at 2:01 p.m.
2. A motion was made by Mr. Garrow and seconded by Mr. Ohol to approve the October 21, 2019 meeting minutes. Unanimous. Carried.
3. *Niagara County Planning Board Referrals*

Charles Greico, Attorney spoke on behalf of Cazenovia Recovery Systems and stated the original referral that was submitted to the Town of Lockport was for a rezoning request and not a use variance as listed on the agenda. Mr. Greico stated the error shouldn't make a difference for the purpose of the planning board's deliberation since the Niagara County Planning Board's role is to advise municipalities with respect to inter-community and county-wide considerations associated with the project. Mr. Greico discussed the use as being appropriate for the location and stated multi-family apartments and re-use of the infirmary building comply with the requirements listed in Niagara County's Request for Proposal when the property was sold. He discussed the Niagara County Department of Mental Health Services' 2019 Local Services Plan which identifies affordable housing as a critical unmet need in Niagara County. The report further states that Niagara County's opioid crisis is an epidemic, has significantly impacted the county, and exceeds the state opioid rates in every category. Mr. Greico discussed the compatibility of the project with surrounding land uses because the area has other multi-family dwellings and the historically the Switzer building was used as an infirmary. Mr. Greico stated the only difference is the specific use of the property will be for people suffering from substance abuse disorders and those needing affordable housing. Mr. Greico reminded the board it is "unlawful to discriminate against those type of users in land use decisions". Chairman Kibler asked Ms. Fisk if Niagara County Mental Health had submitted a recommendation for approval and Ms. Fisk stated the referral package included the mental health report Mr. Greico referenced but the report did not include a project specific recommendation.

Town of Lockport Supervisor, Mark Crocker stated on November 4, 2019, the Lockport Town Board conducted their regular scheduled work session and the Cazenovia project rezoning was discussed. No members of the Town Board motioned for the project to be recommended for action or a public hearing, therefore the project did not move forward.

Resident Carolyn Manning commented that even though the County's Request for Proposals stated the reuse should be multi-family housing the County no longer owns the property so the burden of what is allowed falls to the Town and City of Lockport.

No. 6642 – City of Lockport – Zoning Exemption

Request by Cazenovia Recovery Systems, Inc. and LHC Holdings LLC for the Planning Board to review a request for an exemption from Local Law No. 1 of 2019 that placed a moratorium on approvals in the RA, Reserve Zoning District for a period of 6 months. Ms. Fisk reviewed the appeal clause that is stated in the moratorium language for the exemption. Board members received clarification that the vote was only addressing the moratorium and not the project itself. A motion for approval was made by Mr. Muscatello and seconded by Ms. Klyczek. 6 Ayes, 1 No - Sobczyk. Motion Passed.

No. 6627 – City of Lockport – Site Plan Review, Zoning Map Amendment

Request by Cazenovia Recovery Systems, Inc. for the Planning Board to review a site plan and zoning map amendment for 102 Davison Road for the renovation of the former infirmary building to provide rehabilitation services for 40-45 individuals. The applicant intends to renovate six existing site buildings and construct five new buildings to create 65 new apartment units. The zoning change requested is from RA, Reserve Area to R-3, Multi-Family Residential. The property is 10.3 acres. Chairman Kibler expressed his opinion that the project is a self-created hardship and would change the character of the neighborhood and stated that the use would be a better fit in a different neighborhood. Ms. Fisk clarified for the board acceptable uses in an RA, Reserve Area zoning district. Through the current zoning the project is not an allowable use and is why a zoning map amendment is being requested.

Mr. Garrow stated the two government bodies are not in agreement on the project making it difficult for the board to issue a recommendation. Town of Lockport Supervisor Crocker stated the municipalities have been in contact but the Town of Lockport has not agreed to the annexation proposed by the city or to participate in the moratorium. The Town Board is not entertaining a motion to change the zoning. The Town of Lockport also declined the invitation from the City of Lockport to be part of the committee established as part of the moratorium. Mr. Garrow commented the board needs to take into consideration the unresolved consistency between the town and city. Mr. Agronin asked if one of the municipalities approved the zoning change but the other municipality did not, could the project go forward. Mr. Greico stated the zoning is complicated because the municipal border runs through the center of the buildings. The issue is further complicated by the property deed restrictions which require reuse of the Switzer building before construction of new buildings on the site. If partial rezoning were take place, some of the project might go forward but the buildings affected by the municipal border could not be utilized, which would violate the deed restrictions. Mr. Mulvey, property owner, stated the deed restrictions indicate the property needs to be used for multi-family housing. Mr. Agronin asked Mr. Mulvey why he purchased a property that had such zoning difficulties. Mr. Mulvey stated that "it wasn't going to be a problem until they found out who was going to be in them". He stated that originally when the project was going to be senior apartments "they were good to go" and now that "he started to talk to Cazenovia, nobody likes it because there will be undesired people and they don't want to face the facts of what it is". Mr. Mulvey said that he lives in the neighborhood and the property has been vacant for years with no development and he felt they had the best plan for redevelopment but "now that they know who it's going to be, everyone is up in arms, not cool, not very Christian".

Mr. Agronin told Mr. Mulvey that it seems he took a gamble and Mr. Mulvey responded that "you can't have a deed restriction and not work with us to do it". Mr. Agronin stated that compatible zoning is needed. Mr. Mulvey responded that they have gone to the municipalities to try to work together, also the annexation was going through and was agreed upon but were then told they did not present enough information. Supervisor Crocker stated the County cannot make up the rules for the town or city and you can buy property from the County but unless permission is obtained

from the municipality “it is what it is”. Secondly, he stated there are many people for and against the project but he wanted to make aware the fact that the project has changed over time noting the original plan was for the Switzer building as senior housing and then it turned into a treatment center for Cazenovia with a major apartment complex. He said the project is continuously evolving and did not start out as it is now. Rick Abbott, City of Lockport Alderman indicated the council was never approached about the project. Mr. Mulvey stated he met with Mayor Roman on the project. Mr. Muscatello stated he felt the issue cannot be resolved and the project moved forward because there is no agreement between the involved governments. Mr. Garrow commented the details need to be resolved between the city and town, the project is not compatible with surrounding areas, and it is a self-created hardship. A motion for denial due to the lack of resolution between the municipalities and the impact to the community was made by Mr. Garrow and seconded by Mr. Muscatello. Unanimous. Carried.

No. 6633 Town of Lockport – Site Plan Review, Use Variance

Request by LHC Holdings, LLC for the Planning Board to review a use variance and site plan for the construction and operation of a rehabilitation services facility with housing and community apartments located on Davison Road at SBL #110.00-4-45. The property is 6.893 acres and is zoned R-1, Single-Family Residential. A motion for denial due to lack of resolution between municipalities and the impact to the community was made by Ms. Klyczek and seconded by Mr. Ohol. Unanimous. Carried.

No. 6636 Town of Cambria – Special Permit

Request by Patrick Carl Andalora for the Planning Board to review a special permit request to conduct a trucking business in an existing structure located at 4595 Townline Road. The property is 2.3 acres and is zoned AR, Agricultural and Residence. Mr. Andalora was present to discuss the project. He stated he is currently running a family owned paving business out of his home. He stores two dump trucks, two trailers, a roller, an excavator, a sealing tank and a paving machine on the property. Neighbor Evelyn Buffone said Mr. Andalora runs the equipment longer than EPA guidelines permit and the noise and diesel odors are excessive and unacceptable. Mr. Andalora responded that the diesel equipment needs time to warm up before using. Ms. Buffone operates a bed and breakfast next door and the trucking business is disturbing the guests. Ms. Buffone said there are piles of material stored at different locations on the property and constructing a fence would not stop the odor or noise problems. Mr. Ohol commented he drove by the property and the equipment was neat. In the future Mr. Andalora is hoping to construct a pole barn to store the equipment and install a fence. A motion for approval was made by Mr. Ohol and seconded by Ms. Klyczek. Ayes 2-Klyczek, Ohol, Nos 5. Motion Denied. A motion stating no significant county-wide or inter-community impact was made by Mr. Muscatello and seconded by Mr. Agronin. Unanimous. Carried.

No. 6637 Town of Wheatfield – Zoning Map Amendment

Request by Scheid Architectural for the Planning Board to review a zoning map amendment for three parcels, SBL#176.12-4-17, SBL#176-12-4-18 and SBL#176.12-4-19 located on Niagara Falls Blvd and Demler Road to be rezoned from R-2, Residential-2 to C-1, Commercial. Niagara Falls Boulevard Overlay Zoning District would remain in place. Rezoning will allow for the construction of a daycare facility. The parcels total 2.30 acres. Travis Gruszka of Scheid Architectural was present to discuss the project. Mr. Gruszka informed the board they want to combine the three parcels and need the rezoning to allow for the construction of Child’s Creative Center daycare. The adjacent parcel is zoned C-1, Commercial. A motion for approval was made by Mr. Agronin and seconded by Ms. Klyczek. Mr. Garrow abstained. Unanimous. Carried.

No. 6638 Village of Youngstown – Parcel Subdivision

Request by Townhouses of Youngstown, NY, Inc. for the Planning Board to review a request to subdivide the parcel located on the corner of Main and Jackson Streets, SBL#45.14-1-1, into two separate lots with no change to the existing buildings. One parcel will contain four buildings

containing 24 townhouse units and the other parcel will contain one building with 8 townhouse units. No new construction is proposed. The property is 3.3 acres and is zoned R-8A, General Residence. Steve Schmoyer, property owner was present to discuss the project. Mr. Schmoyer stated there will be no changes to the current buildings. A motion for approval was made by Mr. Sobczyk and seconded by Mr. Muscatello. Unanimous. Carried.

No. 6639 City of Niagara Falls – Zoning Text Amendment, Zoning Map Amendment

Request by the City of Niagara Falls for the Planning Board to review various zoning text and map amendments for the Niagara Falls Bridge District. The project area is generally bound by Whirlpool St., Chasm St., 11th St., and Orchard Pkwy. Additional areas will be included in the C2-A and R3-C Districts and a new D3-A District will be added. James Bragg was present to discuss the project. Mr. Bragg stated the city is trying to be proactive with zoning to further economic development in the area. The board had no concerns. A motion for approval was made by Mr. Garrow and seconded by Mr. Muscatello. Unanimous. Carried.

No. 6640 Town of Niagara – Area Variances, Site Plan Review, Special Permit, Subdivision

Request by Jonathan Woche on behalf of Speedway, LLC for the Planning Board to review area variances, site plan, special permit and minor subdivision for the construction of a new 4,608 sq.ft. Speedway convenience store with fuel sales at 7001 Packard Road. The property is 2.12 acres and is zoned B-1, General Business. Jonathan Woche was present to discuss the project. Mr. Woche informed the board that the parcels will be combined and Phase I and II environmental site assessment have been completed. There will be three entrances into the property, one requiring an easement agreement with the neighboring business. The NYS Department of Transportation is reviewing the project. The board expressed concerns about the close proximity to the airport and airbase and compliance with any applicable regulations. A motion for approval was made by Mr. Muscatello and seconded by Mr. Ohol with the recommendations that a fire review is conducted by the town and the applicant contact the FAA to ensure regulation compliance. Unanimous. Carried.

No. 6641 Town of Lewiston – Site Plan Review, Special Permit


Request by Erdman Anthony Assoc., on behalf of Borrego Solar Systems, Inc. for the Planning Board to review a site plan and special permit request for the construction and operation of a 4 Mw ground mounted community solar energy system at 1815 Ridge Road on 34.3 acres of the 80.167 acres property. The property is zoned RR, Rural Residential. Marc Kenward of Erdman Anthony was present to discuss the project. The project is on the north side of Ridge Road and there are two other solar arrays in close proximity that have been approved. A glare study was completed but the town requested additional testing. The parcel is currently active farmland and there will be approximately 18,000 panels installed on 23.95 acres. All setbacks have been met. Mr. Kenward stated the current moratorium passed by the Town of Lewiston does not apply to this project. A motion for approval was made by Mr. Sobczyk and seconded by Mr. Ohol. Unanimous. Carried.

4. *Old Business* – None

5. *New Business* – None

6. *Adjournment* – A motion was made by Mr. Ohol and seconded by Mr. Agronin to adjourn the meeting at 3:13 p.m. Unanimous. Carried.

Respectfully submitted,


Jacqueline Minicucci, Recording Secretary