

PLANNING BOARD MEETING  
MONDAY – NOVEMBER 13, 2017  
PLANNING BOARD  
7:00 P.M. – TOWN HALL – 1529 NYS RTE 12  
BINGHAMTON – NEW YORK – 13901

PRESENT: Mr. Donnelly, Acting Chairman  
Messrs. Blythe, Carl, Worden & Boland

ALSO PRESENT: Alex Urda, P.E., Town Engineer  
Terry Kellogg, Councilperson  
John Freer, Code Enforcement

ABSENT: Ms. Cynthia Paddick

The meeting convened at 7:00 p.m. at which time Mr. Donnelly called the meeting to order and welcomed the audience. Mr. Donnelly read a statement which explained how the Planning Board members are appointed, along with the Board's functions, limitations and duties. Mr. Donnelly noted that the reading of this statement not only informs the audience about the Planning Board, but it also reminds the Board members of their responsibilities.

#### APPROVAL OF THE MINUTES

- Approval of the October 10, 2017 Planning Board Meeting.

A motion was made by Mr. Blythe, seconded by Mr. Carl, to approve the Minutes of the October 10, 2017, Regular Meeting.

ROLL CALL: AYES – 5            NAYS – 0            ABSENT – 1

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#### NEW BUSINESS

- MICHAEL BOLAND – 1107 Upper Front St. – TM#128.08-2-6 – Application for site plan review for annual use of the vacant property for seasonal retail operations, such as flowers, fruits & vegetable stands, rugs, pumpkins and Christmas trees with food & coffee trucks.

Mr. Urda – Town Engineer – The referenced application is for site plan review for seasonal retail operations at a vacant lot in a PDD-C zone. Application facts include a Planning Board application with permissions, letter of intent, revised site sketch of parking lot space position per NYSDOT review. Plus just received more 239 Review – plan was acceptable and letter from applicant addressing 239 comments.

One item to clarify just to make sure it's recorded that the application use spans 1105, 1107, and 1109 Front St. with the respective tax map numbers as the application only said 1107.

Couple of loose ends that should be discussed is how to address food trucks – how many or just one rotating through. Any temporary lighting, exceeds the use of the amount of parking, as there is no parking requirement for something like this. Will be up to the board if you want the rear of the lot to be used for reserve. Any temporary sales building – none proposed but just in case something comes up and temporary lavatory.

The applicant shall assure that they provide and maintain exterior ADA accessible parking spaces, aisles, access routes, markings, slopes, and signage according to the plan. Project is subject to 239 Review which was received. The applicant addressed the NYSDOT parking concern. This is a Type II action under SEQR. Approval is recommended.

Mr. Freer, Ordinance Office the application is for site plan review for annual use of the vacant property for seasonal retail operations, such as flowers, fruits and vegetable stands, rugs, pumpkins, and Christmas trees with food and coffee trucks. The recommendation from the Ordinance Office is approval with sign permit(s), fire inspection, and building permit(s) required.

Mr. Boland was present to answer questions.

Mr. Blythe – Seasonal – what is that?

Mr. Boland – Christmas trees.

Mr. Blythe – So operating during winter months?

Mr. Boland – Maybe flowers in the spring. There will not be a coffee truck, don't have any of the above. More or less to get a permit to do something more year round than being specific – like Christmas trees only. In the application they were looking to put up a tent or something they'd have to go to the Town and get a permit.

Mr. Blythe – During the summer?

Mr. Boland – No plans maybe flowers if someone calls.

Mr. Blythe – They'd work out of a vehicle?

Mr. Boland – Probably setup some tables like the other spots. If they want a tent they have to come to the Town to get a permit.

Mr. Blythe – Hours?

Mr. Boland – Figured the hours were like Sonic or anything in the area. Places are open 8 – 9 a.m. close around 9 – 10 p.m.

Mr. Carl – Doesn't see that kind of business staying open that late.

Mr. Boland – Christmas trees maybe will be until 9 p.m. Don't see any later than that.

Mr. Blythe – The food truck isn't anything you're going to do?

Mr. Boland – No as no one has applied just trying to get something in there. If that happens they would have to go get whatever permits required.

Mr. Donnelly – Planning on one type of person doing something at a time.

Mr. Boland – Starting with Christmas trees. Don't want to be limited to the month and have to come back during April if he wanted a flower stand or produce stand.

Mr. Donnelly – Would you be opposed to having either you or each vendor notify the Ordinance Office as to what business is going in there, hours of operation, duration they are there?

Mr. Boland – Doesn't have a problem with that at all.

Mr. Blythe – What kind of requirement does the Town have for working out of a truck or something like that?

Mr. Urda – That's why he put in his comment for a portable toilet. Typically what he sees if someone has something like this they; for example, the Amish place they weren't going to have a building initially going to use their own shed as a work space so they had to have a portable toilet with handicap accessibility that was the tricky part having a handicap accessible portable toilet not a skinny one.

Mr. Worden – Any power on site?

Mr. Boland – Any power would come from his building next door or they'd have to have a generator. Like for Christmas tree lights he might have a little generator to run lights.

Mr. Urda – He asked Mike about lighting if it was okay with "us" if he utilizes one of the Boland's light plants for construction during Christmas tree time when it gets dark at 4:30 – 5 p.m. still selling trees until 7 do we mind if he has a temporary light for the season?

Mr. Worden – Get plenty of light from Sonic so it shouldn't bother anyone.

Mr. Boland – He doesn't feel it would bother anyone even with the hours of Sonic. They wouldn't shine towards the streets would be directed back and towards his building.

Mr. Blythe – Will you have a porta potty on site?

Mr. Boland – He can have that's easy. He's got the handicap signs everything is painted – temporary sign for snow plowing – it has the big base and painted on the ground.

Mr. Blythe – You show eight parking spaces.

Mr. Boland – There's a lot of room – painted eight or nine spaces.

Mr. Urda – The State's comment was the proximity to the road. He's actually two stalls back from the road and he moved it even further to accommodate the State.

Mr. Donnelly – Their comment was they needed to be 15' back from the sidewalk.

Mr. Boland – They designed it so he went back to them. The access is 50'. That was the states idea so they had adequate room to come and go in and out, so they gave them 50' so they could put it all in one spot. They designed the whole thing that's why when he took it back over to them they agreed it made sense.

Mr. Carl – Only thing he'd like to add is where it should terminate if he sells. Has great faith that Mike will keep it clean.

Mr. Urda – If you put it in the motion as three parcels whether he combines it or not we're covered.

Mr. Boland – He has the combination form to make it all one. They were split – there was no reason nobody ever thought about it.

A motion was made by Mr. Blythe, seconded by Mr. Carl to approve the site plan with the following conditions–

- sign permit, building permit and fire inspection being required.
- no food trucks.
- porta potty on site.
- proper lighting on site.
- revise lots as site has three parcels – 1105, 1107 & 1109 Upper Front St.
- terminates when sold.

ROLL CALL: AYES – 4 NAYS – 0 ABSENT – 1 (Paddick) ABSTAIN – 1 (Boland)

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ADVISORY OPINION/REFERRALS

- SCOTT T. WILSON – 89 Poplar Hill Rd. – TM#095.20-1-17 – Application for an Area Variance to exceed the maximum square footage for an accessory building from 725 S.F. to 1500 S.F & Use Variance to allow an accessory building as principal use.

Mr. Urda – This is an advisory opinion request from the ZBA for an Area Variance to exceed a maximum square footage for an accessory building from 725 S.F. to 1500 S.F., and Use Variance to allow an accessory building (30’ x 50’ private garage) as a principal use in a residential zone.

Application facts include the application to the Zoning Board with permissions statement, applicant letter of intent, site plan and construction documents and purchase, sale documents and disclosure forms.

In reviewing the Code of the Town of Chenango, Article VII §73-44 the granting of these variances is minimal and is in harmony with the general purpose and intent of these chapters. Both requests are minimal in nature. This is a Type II Action under SEQR.

An easement should be resolved for continued use of the existing access to the stormwater ponds and pumphouse. Coordinate with the Building Department for a building permit. A favorable advisory is recommended.

If you are not familiar with the property it’s a piece that in 2004 the Town built a pumphouse. I don’t know if we built it as it may have been Guy Howard. It was built to service Poplar Hill and they built ponds within the subdivision. The decision on the ponds was to donate them to the Town and the Town took them so now we maintain the stormwater ponds. Right around 2004 when the road was built into the ponds where the horseshoe road is for access to the pumphouse. That land was given to us by Poplar Hill Estates along with the two parcels as you go in on Hemlock. In 2006 there was a corrected deed for whatever reason, can’t find dialog as to why, but the two pieces on Hemlock and 89 Poplar Hill Rd. were given back for a dollar from the Town to Poplar Hill Estates. Found the deeds the other day when he was asked to review. The fact that no one could find any easements – no longer has easements, no longer have access to the pond. We have been using it so now we need to resolve it. Hopefully the applicant will talk to us about perpetual use of it whether it’s an easement or we buy a piece of it. He has a surveyor lined up and the applicant seems willing. He knows Mike

Kwartler, Don Benjamin and Don Walls seem fired up about this. Within the advisory that you give just need to resolve the easement issue. Luckily the pumphouse is about ten feet off the property line – it's really close.

Mr. Blythe – So when do you think all of this will be resolved?

Mr. Urda – Survey could go out this week, and he could know next week and have information on paper.

Mr. Carl – Can't the easement get put in before the sale?

Mr. Urda – Or at the time of sale – zoning contingent upon that.

Mr. Carl – He'd like to make sure this whole thing goes through and he doesn't get stuck buying land and all of a sudden it's not how he wants it.

Mr. Urda – The flip side would be if he was really unwilling (but this is not the case) the attorney would pursue eminent domain on the access as it's something that's critical whether we could win that or not. There is space on the lower side it needs fill and some trees cut down, but they could put in another access; which is not convenient at all given the grades. So we'd like to work it out nicely with this gentleman and continue to use the space. Will you be using this as your driveway?

Mr. Wilson – Yes that is the plan as not to disturb the driveway and access that is there as he knew we would need it for the Town access. He was planning on building on the right side of the existing access.

Mr. Urda – Thinks it's going to work out okay. We maintain it.

Mr. Blythe – Feels this should be tabled.

Mr. John Freer – The Ordinance Office would recommend a positive advisory with the following conditions: The Town of Chenango Highway, Sewer & Water Departments having use of the roadway through the property to access the pump station and retention ponds in adjacent properties owned by the Town and that roadway kept clear.

Mr. Donnelly – The applicant is here to answer other questions. Any further discussion?

Mr. Worden – Applicant is working with the Town.

Mr. Urda – This Board is not the final say so you can put it through and let ZBA decide.

Mr. Donnelly – Basically we are giving an advisory to the ZBA. That meeting is in two weeks so another two weeks for the engineer to resolve some of the issues. Their advisory can say that it needs to be resolved before they approve so by tabling it messes things up.

Mr. Blythe – They don't know what he's coming up with.

Mr. Donnelly – But he can report to the ZBA.

Mr. Urda – Feels the only question is how many feet to the one side of the access does the Town go – is it five feet or ten feet off of it. Then who maintains – getting the language in there.

Mr. Blythe – Which is stuff we've always discussed.

Mr. Donnelly – We can recommend what it needs to be.

Mr. Urda – When it's two commercial entities we just make sure to procure the easement before they get final approval and it needs to be filed. He just asks that the easement be filed at the County as sometimes the easements are written between entities and then they disappear.

Mr. Carl – They should be part of the deed. His concern is putting Mr. Wilson in a bad situation with the seller as he has a contingent sale. Wouldn't want him to go forward with the sale and then have something go south here because it could be a bickering match. He doesn't mind letting the Zoning Board of Appeals handle it, from a timing perspective if we don't we could cost him another month.

Mr. Urda – Do you set a time (closing) in your paperwork as he didn't notice.

Mr. Wilson – As soon thereafter as we get the variance approved.

Mr. Blythe – If everything is approved when would you start construction?

Mr. Wilson – Start the day after. As a timing perspective if we don't make the next Zoning Board of Appeals meeting – appears the logic here is if they don't move it forward today then his understanding is it will push him back probably two months; which, will put him in January so he won't get anything done until spring. It's either get it done now so he can do site prep or probably will be spring time before he can do anything there.

Mr. Urda – If they were to table him today he'd have to come back in December.

Mr. Carl – Do you feel okay about the timeline with what you want to get done?

Mr. Urda – It is what it is. We'll move as quickly as they can. After tonight the survey is a go depending on how the discussion goes. It's new – the lot that was written up on a plat map has a track record so it should be easy to follow. Not like he has to research it.

Mr. Blythe – So when the survey comes back then what?

Mr. Urda – Within that survey they put an easement line in it and then it's a negotiation of value of the easement, terms of easement. There's some time between owners and owners attorneys. Not sure how long it will take with Don (Walls) and his side.

Mr. Donnelly – Right now that needs to be done with the current owner.

Mr. Wilson – Don has already called his attorney so it appears he's not dealing with the seller's attorney.

Mr. Urda – He's setting it up to be done at the point of sale. Guy Howard doesn't want Poplar Hill Estates involved with it at all.

Mr. Donnelly – If it can be done without him being involved that's probably much easier because they know his thoughts on it.

Mr. Urda – The intent is at the closing – if Don has to sit there as a third attorney in the room or if the two other

attorneys just add our piece to the closing. It would be nice to keep Don out of the room so he doesn't have to charge.

Mr. Donnelly – Thinks it would be great if it can be part of the sale.

Mr. Urda – Has asked Lillian Levy, Poplar Hill Estates Attorney, to find out where they dropped the ball on the easement. Don Walls directed him to resolve it.

Mr. Donnelly – Probably easier to draw up a new one.

Mr. Wilson – Just for clarity the Town does own the road frontage just south of this lot – don't know when the pumphouse was put in – was on that parcel – road access is about 125' off of the Town parcel.

Mr. Urda – Yes we just want to continue to use the existing driveway. Other utilities did look at it – had Don Benjamin stake out water/sewer. No gas that they are aware of crisscrossing, but that wouldn't pertain to the Town because at the pumphouse there are sewer/water lines running here or there. Gas easement would be with us. Don't need extra easements for water or sewer just the access to the ponds.

Mr. Carl – You don't have your typical questions about drainage for this building?

Mr. Urda – No. It comes down to us or goes down to the back yard channels that are there. It's buffered by our property.

Mr. Barrett, 1 Stever Dr. – Would like to ask a question. Is he misunderstanding something? You are talking about the land – correct? This variance is for the building. Is he missing something?

Mr. Urda – Correct the variances are for the building, but the Towns access to the two retention ponds for Poplar Hill Estates and access to the pumphouse is on the property he is buying. They were the Towns in 2004 and for whatever reason we deeded it back to Poplar Hill Estates, but didn't retain easements or they are not recorded.

Mr. Carl – He understands what he's asking. Our advisory is favorable for the building with those exceptions.

Mr. Barrett – But he hasn't heard anything about the building variance.

Mr. Urda – He's authorized to move ahead to get the surveyor out there and work on the dialog with you. He has to take a quick look to see if there's any drainage that we are concerned about. Hopefully it's pretty straight forward.

Mr. Wilson – Okay.

Mrs. Minacci, 23 Woodland Dr. – Would like to ask a question to follow Mr. Barrett's. She is confused like he is. Who decides about the application for Area Variance to exceed the maximum square feet from 725 S.F. to 1500 S.F. Is that decided by the Zoning Board?

Mr. Donnelly – They can approve the variance. What they've done is told them they are giving them a favorable advisory. That it's okay with them.

Mrs. Minacci – This whole thing is okay with you but then it goes to... This is all cleared up – everything that Alex has been talking about – then the Zoning Board will decide on the rest of it.

Mr. Donnelly – Now it goes to the Zoning Board.

There being no further comments a motion was made by Mr. Worden, seconded by Mr. Carl to forward a favorable advisory for an Area Variance & Use Variance to the Zoning Board of Appeals with the following conditions –

- easement granted to the Town of Chenango Highway, Sewer & Water Departments having use of the roadway through the property to access the pump station and retention ponds in adjacent properties owned by the Town and that road way kept clear.
- building permit is required.

ROLL CALL: AYES – 4      NAYS – 1 (Blythe)      ABSENT – 1 (Paddick)

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- JEREMY DELLOW – 6 Poplar Hill Rd. – TM#112.08-1-71 – Application for an Area Variance to construct an addition with less than required side yard setback from 10’ to 5’.

Mr. Urda – This is an advisory opinion request from the ZBA for an Area Variance for construction of an addition with less than required side yard setback from 10’ to 5’ in a residential zone.

Application facts include the application to the Zoning Board with permissions statement, applicant letter of intent, site plan with addition shown.

In reviewing the Code of the Town of Chenango, Article VII §73-44, and given the angular and thin nature of the lot configuration the granting of this variance is necessary for reasonable use of the land, and is in harmony with the general purpose and intent of these chapters.

Project is subject to 239 Review which commented to not encroach on neighbor and to account for potential for drainage changes. This is a Type II Action under SEQR.

Recommend coordinating with the Building Department for code compliance review and a building permit. If there is no objection from the neighbor to the north a favorable advisory is recommended.

Mr. John Freer – The Ordinance Office would recommend a positive advisory with a building permit being required.

Mr. Blythe – You’ve been in touch with your neighbor to the north?

Mr. Dellow – Have not actually seen him for a while – he may have gone to visit family.

Mr. Blythe – So he doesn’t have any idea?

Mr. Dellow – He talked to him over the summer.

Mr. Worden – He travels a lot as his family is out of town – Mr. Bob Peterson is who we are talking about.

Mr. Dellow – Correct. He lost his wife a few years ago and their sons live out of state.

Mr. Urda – Normally he doesn't know if they get the formal notification of the advisory meeting, but should be getting notified of the Zoning Board of Appeals meeting – correct?

Mrs. Schnurbusch – Correct.

Mr. Urda – Usually that's when they show up.

Mr. Dellow – He can leave him a note in his mailbox to let him know about that meeting on the 28<sup>th</sup>. When he talked to him over the summer – when they were discussing it – the only thing he seemed to be a little shaky about was the fact that because his garage is detached and it's on the opposite side of the property with four feet between the house and garage. The only way to bring an excavator down to dig out the crawlspace is to run right down the side of his house. Bob is very particular about his yard. He does a lot of work outside – keeps his yard up – landscaping is his passion. He was worried about possible damage to his grass. That seemed to be the only thing he was worried about. Will get a lot of scrap plywood to run across that. Might give him a letter promising to fix everything should anything happen on his side of the property line. Maybe staple a \$100 Agway gift certificate for his own projects. We will see if he's agreeable to that.

Mr. Blythe – So in the back was there a back door? He noticed how he's in line with the one wall. Why can't you move it closer to the garage?

Mr. Dellow – Basically because of the width of the addition that they are putting on it's going to be a hallway as well as bath, bedroom, and closet. They are only going to have 7' or 8' between the garage and existing side of the proposed addition. Trying to move that over will just encroach so much more it becomes a dark alley. Just not aesthetically pleasing with the spacing they are planning. Now he can put a table out, gas grill, things like that. Does not want the addition that close to the garage if they can help it. He thinks it wouldn't look as nice with an offset addition set in from the side and seeing the house from that side view.

Mr. Carl – He'll get the mailing from the Zoning Board of Appeals.

Mr. Kellogg – It's a procedural step that the Zoning Board has to do.

Mr. Urda – Can that go out certified and come back to us?

Mrs. Schnurbusch – No, what goes out are postcards and they were mailed out last week.

Mr. Urda – Do we want the applicant to send a certified one? Not sure if he's traveling around gets to him.

Mrs. Schnurbusch – They try twice but if the second time fails it comes back as undeliverable.

Mr. Carl – That's procedural can we ask for someone to do this?

Mr. Worden – Has this ever happened in the past where someone wasn't notified, came back later on, and complained?

Mrs. Schnurbusch – Not that she can recall.

Mr. Urda – Normally they don't go to that step with the applicant just trust that the mailings go out, and if they don't show up at the Zoning Board meeting they don't show up to the Zoning Board.

Mr. Carl – John and Nancy will hear either way.

There being no further comments a motion was made by Mr. Carl, seconded by Mr. Blythe to forward a favorable advisory for an Area Variance to the Zoning Board of Appeals with a building permit being required.

ROLL CALL: AYES – 5 NAYS – 0 ABSENT – 1 (Paddick)

Mr. Donnelly – If Mr. Dellow can get ahold of the neighbor and could write a note wherever he is and could bring that to the Zoning Board – saying he doesn't have a problem with this project that would be beneficial.

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#### ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 7: 37 p.m.

Respectfully submitted,

Nancy Schnurbusch,  
Recording Secretary