

ONTARIO COUNTY PLANNING BOARD

Referrals for Review at the: **Coordinated Review Committee Meeting –Tuesday March 7, 2023, at 3:30pm**
County Planning Board Meeting –March 8, 2023 at 7:00pm 20 Ontario St., Canandaigua
 Telephone: 585-396-4455

This document will serve as both the draft minutes for the Ontario County Planning Board and as the Official Notice of Findings and Decision for the applications reviewed by the CPB. It can also be viewed at the Ontario County Planning Department Website <http://www.co.ontario.ny.us/index.aspx?nid=516>

Attendance and Minutes.....2
 Referral Reviews and Board Action.....2
 General Procedures and Legal Obligations for Referring Agencies.....15
 Results Key - Recommended referring body action: A = approve, A-M = Approve with Modification, D = disapproval NA = No Action Other Results: I =incomplete *=use not allowed

Referral #	Municipality_2	Applicant	Application Type	Class/ Action	Page
34	Town of Phelps	Cheryl Richardson	Site Plan	1	2
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36	Town of Victor	F & W Development	Use Variance	2/D	6
37	Town of Manchester	Cabbage Patch Lane LLC	Site Plan	2/A	7
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40	Town of Seneca	Steve Hullings	Special Use Permit & Site Plan	1/I*	10
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42	Town of Canandaigua	Town of Canandaigua	Text Amendment	2/A	12
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Call To Order/Roll Call: Chair Passavant called the 3 /8/23 CPB meeting to order at 7:00 pm and requested Ms. Holley to do roll call. Ms. Holley presented roll call and reported that there were fifteen (15) members present physically at 20 Ontario Street meeting the quorum requirement.

Guests Tammy & Steve Hullings, Brittany & Steve Hullings/Silos of Seneca; Joshua Douglas/SR 14 A camping cabins

Minutes: *Motion made by Steve Groet to approve the January 11, 2023 minutes seconded by Len Wildman*
Motion Carried.

	Member name in bold if on local legislative, planning, or zoning board	P-Present / V – Virtual Excused Absence	A – Absent, E –
Town of Canandaigua	Shawna Bonshak	P	
Town of West Bloomfield	Ruth Cahn ZBA	P	
Town of Victor	Mike Crowley	P	
City of Canandaigua	Doug Dello Stritto	P	
Town of Seneca	Roslyn Grammar	P	
Town of Canadice	Stephen Groet PB	P	
Town of Gorham	Gabrielle Harris PB		E
Town of Geneva	Steven High	P	
Town of Farmington	Ted Liddell	P	
Town of Bristol	AJ Magnan ZBA	P	
City of Geneva	Paul Passavant	P	
Town of Phelps	Nina Tilman PB alt	P	
Town of South Bristol	Bessie Tyrrell PB	P	
Town of Richmond	Leonard Wildman PB	P	
Town of Manchester	Tammy Worden	P	
Town of East Bloomfield	Mike Woodruff PB		E through 4/12/23
Alternate Member	Jack Dailey		E
Town of Hopewell	Vacant	-----	-----
Town of Naples	Paul Lambiase	P	

34 -2023

Town of Phelps Planning Board

Class: 1

Type: *Site Plan*

Applicant & Owner: *Cheryl Richardson*

Representative: *Jason McCormick*

Tax Map Parcel #: *77.00-2-64.311*

Brief Description: *Site Plan for 8,000 SF commercial storage building for utility construction business at the northwest corner of SR 14 and Skuse Road in the Town of Phelps.*

<https://ontariocountyny.gov/DocumentCenter/View/37530/34-2023-Aerials-Construction-Storage>

<https://ontariocountyny.gov/DocumentCenter/View/37568/34-2023-site-plan-NYS-Route-14-Richardson>

Applicant is seeking site plan approval to construct an 8,000 SF office/storage building for a utility construction company on a parcel located on the northwest corner of State Route 14 and Skuse Road in the Town of Phelps. The parcel is 31.3 acres, zoned as commercial with its' use currently listed as vacant commercial. Proposed construction is located on the southern-most portion of the lot. Site plan proposes 9 parking spots, one of them being an ADA compliant space. There are no proposed changes to the existing driveway/entrance off of Skuse Road. Water service is to be connected from existing watermain along State Route 14, and electricity is to be provided from the existing utility pole along Skuse Road. The proposed septic is located just north of the proposed building, with area

for 100% future expansion. Surrounding parcels are all zoned commercial. Adjacent parcels to the west and south have a primary use as residential. There is also a large parcel directly to the south that is an agricultural district. According to OnCor, there seems to be a national wetland along the west and northern portions of the parcel. The parcel is very flat, having little to no slope (0-3%) throughout. Site soil characteristics are as follows:

Elnora Loamy Fine Sand (59.9% - 18.72 acres) 0-3% Slope

Prime Farmland

Permeability: high **Erodibility:** high

Hydrological Group: B Not Hydric

Aeric Epiaquepts (25.4% - 7.93 acres) 0-3 % Slope

Farmland Prime if drained

Permeability: high **Erodibility:** med

Hydrological Group: C/D Partially Hydric

Lakemont Silty Clay Loam (13.8% - 4.30 acres)

0-3 % Slope

Farmland of statewide importance

Permeability: low mod **Erodibility:** very high

Hydrological Group: D Partially Hydric

Lamson Mucky Fine Sandy Loam (1% - 0.32 acres)

0-3 % Slope

Farmland Not Prime

Permeability: high **Erodibility:** high

Hydrological Group: B/D All Hydric

CPB Comment

1. Applicant/contractor should not start construction before site plan final action.

Board Motion: To retain referrals 34-2023, 38-2023, 39-2023, 43-2023, 44-2023, 45-2023, and 46-2023 as class 1s and return them to the local boards with comments. **Motion made by:** Steve High **Seconded by:** Roslyn Grammer
Vote: 15 in favor, 0 opposed, 0 abstentions **Motion carried.**

35 -2023

Town of Phelps Planning Board

Class: 1

Type: *Site Plan*

Applicant & Owner: *2130 St Rt LLC*

Representative: *Jason McCormick*

Tax Map Parcel #: *63.00-2-24.100*

Brief Description: *Site Plan for demolition of an existing structure and construction a 12,000 SF building and attached 800 SF office space for an auto recycling business along the west side of SR14, 2130 SR 14, in the Town of Phelps.*

<https://ontariocountyny.gov/DocumentCenter/View/37556/35-2023-Aerials-Auto-Recycling>

<https://ontariocountyny.gov/DocumentCenter/View/37569/35-2023-enlarge-sit-w-landscape-Auto-Parts-Rte-14>

Applicant is seeking site plan approval for the demolition of an existing office building along the northern frontage and construction of a 12,000 SF building (half storage and half recycling) with an attached 800 SF office building along the southern portion of the frontage in front of the existing storage building that will remain. There are 8 overhead doors proposed on the west (rear) side of the building not visible from the road. There is no proposed change to the existing gravel driveway.

The existing fence screening the front of the parcel to the south of the driveway is to remain, while the section of the fence to the north of the driveway is to be removed. A new screening fence similar to the existing fence will be installed from the new building to the north property line of the developed lot. The proposed structure will use an existing water main connection. Plans indicate that there is the potential for a 12,000 SF addition to the structure in the future. Plans indicate expansion of the gravel yard at the north end of the existing parcel and a new concrete pad to cover a portion of the parcel. There are 25 proposed parking spaces with the potential for 20 more if needed. Plans indicate proposed septic system with area for 100% future expansion along front of parcel. For screening, 15 trees are to be placed along the ROW. Proposed work is to cause more than one acre of disturbance.

According to OnCor, this property drains to the Canandaigua Outlet. There is a national wetland on the northeast corner of the property, but the aeriels and the site plan indicates vehicles in the area. Review of previous aeriels indicate a pond, located in the area of the proposed building was filled in between 2014 and 2018. There is gentle to no slope throughout the property (0-9%). Soil Analysis is listed below

Soil Characteristics:

Elnora Loamy Fine Sand (50.7% - 10.42 acres)

0-3 % Slopes

Prime Farmland

Permeability: high **Erodibility:** high

Hydrological Group: B Not Hydric

Aeric Epiaquepts (21% - 4.32 acres)

0-3 % Slopes

Farmland Prime if drained

Permeability: high **Erodibility:** med

Hydrological Group: C/D Partially Hydric

Colonie Loamy Fine Sand (19.2% - 3.94 acres)

3 - 8 % Slopes

Prime Farmland

Permeability: high **Erodibility:** med

Hydrological Group: A Not Hydric

Lamson Fine Sandy Loam (8.3% - 1.70 acres)

0-3 % Slopes

Farmland of Statewide Importance

Permeability: high **Erodibility:** high

Hydrological Group: B/D Partially Hydric

Lamson Mucky Fine Sandy Loam (0.9% - 0.18 acres)

0-3 % Slopes

Not Prime Farmland

Permeability: high **Erodibility:** high

Hydrological Group: B/D Hydric

Subject parcel and surrounding parcels are all zoned C-1 Commercial. There is a residential use on a commercially zoned lot to the south and remaining adjacent properties are all commercial or vacant.

Comments:

1. The applicant should conduct site investigations to ensure fill areas will support proposed building.
2. More clearly indicate on plans which part of fence is to remain/be removed.
3. The proposed septic says it has the area for 100% expansion. Based on the drawings/SF of area, it looks like there might not be enough space.
4. Plans say spacing of evergreen trees for screening could be up to 50' apart. Is this spacing sufficient to adequately screen site activities given the size of trees to be planted and their growth rate?

5. Potential for fuel/lubrication contamination. Outline steps taken to comply with recycling/disposal regulations.
6. Significant increase in impervious area is proposed. How will the additional stormwater quantity and quality be managed?
7. The site plan also indicates the intent to combine the subject parcel with 3 additional parcels covering 23 acres and extending north to Cross Road. The middle parcel, 63.00-2-22.1, includes a stream. What are the applicant's plans for these properties? Care should be taken to protect the stream and preserve the visual character of the SR 14 and Cross Road frontages.

SWCD Comments:

1. No information on file regarding existing onsite wastewater treatment system.
2. It appears since 2014, one pond labeled as a possible federal wetland with a blueline stream connected was filled in and one pond not labeled as a federal wetland was filled in.
3. The referring body should ensure property removal/abandonment of the existing wastewater treatment system.
4. The referring body should confirm the septic tank, leach field, and future leach field expansion area are outside the required property boundary and ROW setbacks.
5. The wastewater treatment system chosen (Eljen) minimizes leach field areas. Were other systems (gravelless or presby) considered?

NYS DOT Comments

1. Following removal of the fence from the driveway north to the property line to accommodate septic system and potential future parking, there needs to be a site feature to limit vehicle access to the defined entry/exit point.

CRC Comments

1. How will the proposed building be used? Conducting vehicle fuel; lubricant, battery removal and related dismantling activities in an enclosed building with floor drain and containment barriers is desirable to minimize potential for contamination of land during storage life of vehicle in the yard.
2. Does wastewater treatment system include an oil separator or other pre-treatment steps to remove potential contaminants?

CPB Comments

1. Demolition debris should be recycled if feasible or disposed of properly.
2. Selected wastewater treatment system is only effective with regular monitoring and maintenance.
3. The applicant should carefully select the species planted in frontage landscaping area as this area is close to the leach field and the applicant will want to avoid root intrusion into the leach area.
4. The referring body may want to request from applicant copies of any required NYS DEC or NYS DMV permit or license applications and record of action.
5. The referring body should ensure construction of appropriate green infrastructure or other stormwater management practices to address potential quantity and quality impacts of increased impervious surface.

Board Motion: To elevate referrals 35-2023 to class 2 given potential for increased building area to impact on-site stream. **Motion made by:** Steve Groet **Seconded by:** Len Wildman

Vote: 14 in favor, 0 opposed, 1 abstention by Nina Tillman. **Motion carried.**

Board Motion: To retain referral 35-2023 as a class 2 and return it to the local board with recommendation for approval with comments. **Motion made by:** Doug Dello-Stritto **Seconded by:** Roslyn Grammer

Vote: 14 in favor, 0 opposed, 1 abstention by Nina Tillman. **Motion carried.**

Type: *Use Variance*

Applicant & Owner: *F & W Development*

Tax Map Parcel #: *14.02-1-4.000*

Brief Description: *Use Variance to allow residential use in existing single-family dwelling on a parcel that is in the Light Industrial Zoning District at 8000 SR 251 in the Town of Victor.*

<https://ontariocountyny.gov/DocumentCenter/View/37557/36-2023-Aerial>

Applicant is seeking a use variance to re-establish residential use for an existing single-family dwelling, currently used as an office, on a 28.35-acre parcel that is currently zoned Light Industrial. According to OnCor, the site's property class is characterized as small retail and the property aerial shows extensive storage of landscaping materials and equipment.

Adjacent parcels to east and west are all zoned as Light Industrial and coded as manufacturing use, and the same is true for the parcels to the north. Parcels to the south (on the other side of State Rt. 251) are all zoned Residential. The site contains an active Tree and Landscaping business. The applicant claims financial hardship is being caused by theft and vandalism on the property, requiring 24-hour employee presence to deter thieves and vandals. Annual business loss from theft and vandalism is estimated at \$25,000. Therefore, the applicant is proposing to re-purpose the second floor of the existing home and re-establish to living quarters (residential use) for employees. Applicant claims home still has all the infrastructure to accommodate living quarters, and it will not need to change the interior or exterior of the building.

To authorize a use variance, the referring body must find that for each and every permitted use under the zoning regulations for the particular district where the property is located,

- (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (4) that the alleged hardship has not been self-created.

In the granting of use variances, the referring body shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

While the referring body, not CPB is responsible for evaluating each of the 4 required standards to be met for granting of a use variance and weighing the reasonableness of the documented financial return available from allowed uses, the unique situation of the applicant, the impact to community character, and whether the hardship was self-created, it does not appear that the application materials submitted include financial evidence to document inability to receive a reasonable return from all allowable uses

Findings:

1. County Planning Board has an interest in ensuring local boards carefully consider the implications of granting use variances and adhere to the four prong unnecessary hardship test outlined in NYS statute.
2. The referred materials do not include any dollars and cents financial evidence, that the applicant cannot receive a reasonable rate of return for any of the allowed uses.

Board Motion: To retain referral 36-2023 as class 2 and return them to the local board with a recommendation for denial. **Motion made by:** Steve Groet **Seconded by:** AJ Magnan

Vote: 15 in favor, 0 opposed, 0 abstentions **Motion carried.**

37 -2023 Town of Manchester Planning Board Class: 2
Type: *Site Plan*

Related Referrals: *144-2019, 117-2021*

Applicant & Owner: *Cabbage Patch Lane LLC*

Representative: *Costich Engineering, DPC*

Tax Map Parcel #: *44.00-2-65.100*

Brief Description: *Site Plan for construction of a 300,000 SF dry warehouse and 180,000 SF future expansion and associated improvements on parcel with existing refrigerated warehouse with rail access at 20 Cabbage Patch Lane in the Town of Manchester.*

<https://ontariocountyny.gov/DocumentCenter/View/37558/37-2023-Aerial-Leonards>

<https://ontariocountyny.gov/DocumentCenter/View/37634/37-2023-overall-site-demo-plan>

<https://ontariocountyny.gov/DocumentCenter/View/37570/37-2023-site-plan-leonards>

Subject parcel is 133.8 acres, divided by Cabbage Patch Lane and a parallel (active) railway. Leonard’s Express is currently using nearly 130,000 SF of refrigerated warehouse on the northern side of the southern rail line. The new warehouse in this area and new alignment of Cabbage Patch Lane were reviewed as referral 117-2021 in June 2021.

The proposed dry warehouse will be located on the southern portion of the parcel, directly south of the rail line. The proposed warehouse will be 300,000 SF. Plans indicate potential for future attached 180,000 SF warehouse addition to the southern-facing side of the proposed building. Site is currently accessed from Cabbage Patch Lane, connected by two driveways located on the northern and southern side of the building. There is a small bio-retention area along the northern edge of the proposed building adjacent to a rail ROW.

The site plan shows two tractor trailer parking areas along the west side of Cabbage Patch Lane with 20 and 24 spaces. The northern most standard pavement parking area exists and a bioretention area will be added. The southern parking area will be heavy duty pavement with no associated bio-retention area. There are also 26 employee parking spaces on the east side of Cabbage Patch Lane next to the building and two additional heavy duty tractor trailer parking areas with associated bio retention areas on a new internal driveway to the east of the proposed building with 15 and 20 spaces. The disturbed area of the site is 33.8 acres.

The lighting plan indicate road and driveway lighting to match 28’ light pole along Cabbage Patch Lane and wall lighting along east and west sides of the building. Photometric plans indicate light levels at property boundaries will be less than .5 fc. Landscaping includes 40 evergreen trees (Concolor fur, Norway spruce, Colorado spruce) along the west

side of Cabbage Patch Lane to buffer the view from the adjacent mobile home park to the west in the Village of Shortsville, the rest of the surrounding land to remain as open field. There is piping connecting the 4 bioretention areas to a stormwater management facility with forebay in the northeast corner of the development area.

The property is zoned M-3 Rail Enabled Industrial District. This district was created to further the recommendation of the Ontario County Freight Rail Corridor Development Plan for lands in the Town of Manchester. The Ontario County Freight Corridor Development Plan identified the project site as an ideal location for rail development. The Plan narrative and development on plan pages 54 to 57 outline suitability of food processing, warehousing, distribution, and manufacturing operations and show a conceptual development plan for rail enabled and other industrial uses in this area. <https://www.co.ontario.ny.us/DocumentCenter/View/14856/Final-Ontario-Freight-Final-Corridor-Development-Plan-and-Final-Generic-Environmental-Impact-Statement>.

The rail enabled zoning requires preserving the feasibility of providing site/buildings rail access and consultation with Finger Lake Railway. Application materials indicate a traffic study was completed at the time of previous site development and the traffic generation projected for the proposed project is within the analyzed impact threshold.

According to OnCor, the property is in the Ontario County Agricultural District and not constrained by floodplains or steep slopes. There are no wetlands identified in the area of proposed construction. The parcel section where the construction is occurring has a soil type that consists mainly of five (5) different soils: Odessa Silt Loam, Rhinebeck Silty Clay Loam, Cazenovia Silt Loam, Lima Loam, and Honeoye Loam. See soil descriptions below.

Odessa Silt Loam

0-3 % Slope
Prime Farmland if drained
Permeability: mod low **Erodibility:** very high
Hydrological Group C/D Partially Hydric

Rhinebeck Silty Clay Loam

0-3 % Slopes
Prime Farmland if drained
Permeability: mod high **Erodibility:** very high
Hydrological Group C/D Partially Hydric

Cazenovia Silt Loam

8-15% Slopes
Farmland of statewide importance
Permeability: mod high **Erodibility:** high
Hydrological Group C/D Not Hydric

Lima Loam

0-3 % Slopes
Prime Farmland
Permeability: mod high **Erodibility:** high
Hydrological Group C/D Not Hydric

Honeoye Loam

0-3 % Slopes
Prime Farmland
Permeability: mod high **Erodibility:** med
Hydrological Group C Not Hydric

Commentss

1. The referral materials do not include documentation of consultation with Finger Lake Railway. The distance of the building from the rail ROW and location of bio-retention area 1 may preclude feasibility of serving this building by rail. As required by zoning, the applicant should be required to document Finger Lakes Railway assessment of feasibility of rail connection.

Finger Lakes Railway Comments

1. Rail access should be a requirement for this facility. Building rail access could be to the north, east, and or west sides of the building as currently proposed.
2. Finger Lake Railway’s initial consultation with the applicant and review of a concept plan for this facility indicated it would have rail access. Rail enabled development on this site is anticipated by Town and County economic development interests. The referring body should request documentation of correspondence between Finger Lake Railway and applicant regarding shared understanding of plans for rail access and/or interior building layout that would support such connection in the future.

CPB Comments

1. Adjacent residents are concerned about this expansion as the existing level of truck traffic in having noise impacts. It is not clear from the materials submitted whether the previously proposed berm was constructed along with the road construction. A continuous tree buffer may also improve sound attenuation.

Board Motion: To retain referral 37-2023 as class 2 and return it to the local board with a recommendation for approval with comments. **Motion made by:** Paul Passavant **Seconded by:** Steve High

Vote: 15 in favor, 0 opposed, 0 abstentions **Motion carried.**

38 -2023 Town of Manchester Planning Board Class: 1
Type: *Site Plan*

Applicant & Owner: *Gary Rogers*

Tax Map Parcel #: *11.00-2-59.100*

Brief Description: *Site plan for construction of a 6,000 SF storage building for construction supplies and tools on the east side of SR 21 in the Town of Manchester.*

<https://ontariocountyny.gov/DocumentCenter/View/37559/38-2023-Aerial>

<https://ontariocountyny.gov/DocumentCenter/View/37571/38-2023-site-plan>

The property at 485 SR 21 is zoned A-1 Agricultural. According to OnCor the property it is not in Ontario County Agricultural Districts #1, though the rear portion of the property appears to be cultivated in conjunction with agricultural lands surrounding the property that are in the county agricultural district. OnCor also indicates a large area on the National Wetland Inventory to the south of the existing house. There are no steep slopes on the property

Comments

The referring body should require the applicant to document no wetland disturbance.

Board Motion: To retain referrals 34-2023, 38-2023, 39-2023, 43-2023, 44-2023, 45-2023, and 46-2023 as class 1s and return them to the local boards with comments. **Motion made by:** Steve High **Seconded by:** Roslyn Grammer.

Vote: 15 in favor, 0 opposed, 0 abstentions **Motion carried.**

39 -2023 Town of Farmington Class: *Exempt*
Type: *Subdivision*

Applicant & Owner: *Daniel Geer*

Tax Map Parcel #: *10.00-1-36.00*

Brief Description: *Subdivision of a 99.97-acre parcel into two (2) parcels with an area of 93.0 and 6.97 acres on the west side of Yellow Mills Road in the Town of Farmington.*

40 -2023 Town of Seneca Planning Board & Zoning Board Class: 1
Type: *Special Use Permit and Site Plan*

Applicant & Owner: *Steve Hullings*

Tax Map Parcel #: *146.00-1-34.110*

Brief Description: *Site Plan and Special Use Permit to repurpose existing vacant houses, storage building, and barn on parcel into a wedding/event venue at 4694 Redman Road opposite Turnbull Road in the Town of Seneca.*

<https://ontariocountyny.gov/DocumentCenter/View/37560/40-2023-Aerials>

<https://ontariocountyny.gov/DocumentCenter/View/37572/40-2023-layout-plan>

According to OnCor, the property and all adjacent properties are in Ontario County Agricultural District #1. The property is not constrained by floodplains or steep slopes. The southern end of the site contains a NYSDEC regulated wetland associated with a stream and woodlot.

The existing Agricultural zoning district does not allow event centers. The referring body staff has indicated the Town of Seneca is interested in revising its zoning regulations to accommodate the proposed use.

Comments

1. The referring body should refrain from action on the site plan and special use permit application until after amendment of zoning district regulations. The Town of Seneca should avoid authorizing a wide range of non-farm commercial uses in the Agricultural district.
2. Zoning regulations for event center should address not only buffering/limiting land use conflicts and water/waste water system as outlined above but also noise impacts of live and/or amplified music.
3. Submitted materials indicate the venue will accommodate up to 150 guests. What provisions are being made to provide potable water and waste-water disposal for that number of people?
4. Does the proposed parking area represent an increase in impervious cover? If so, the water quality and water quantity impacts should be minimized through incorporation of green infrastructure impact.
5. What is the intended use of the remainder of the 20-acre property? To retain on-site and adjacent properties as viable farmland, a landscaped buffer and/or berm should be established to protect the proposed activities from the dust, noise, and smells of agricultural operations.

CPB comments

1. The referring body may want to consult with other municipalities regarding the adequacy of their event center regulations for area venues such as Lincoln Hill Farms (operating in Gorham), Point of the Bluff, breweries along Seneca Lake, and Chateau Oliva (proposed in Gorham) when drafting event center zoning definition and special use permit standards.
2. It may be appropriate to consider a temporary special use permit and to require any future owner to reapply with revised operations plan.
3. In response to CPB questions, applicant and Board members offered the following additional information
 - a. The farm homestead with 3 residences was subdivided from the agricultural land in September. OC Real Property Tax confirmed recording of the subdivision. The new 5.1-acre parcel is lot 146.00-1-34.111.
 - b. The ZBA may require an area variance for the size of the proposed home business.
4. Event center is not on the list of specially permitted home businesses allowed in the Agricultural districts. Further staff review of Town of Seneca Zoning Law definitions and general standards for home businesses identified the following additional areas of non-compliance with existing regulations:
 - a. The definition of accessory use or structure requires it to be subordinate to the principal building or use in area, extent, and purpose. Under the former agricultural use, the farm/ 3,200 SF barn might have been the principal use and the single-family home(s) accessory uses. The Town needs to consider what is the principal

and the accessory use at this time. The applicant indicated the ZBA suggested an area variance may be required for the size of the home business.

- b.C. (2) only 1 accessory building allowed to be used in the home business.
- c. C. (3) contradicts C (2) as it uses the phrase accessory buildings and restricts total aggregate size of accessory buildings constructed for a home business to 2,500 SF. Since no buildings are to be constructed for this use, this 2,500 SF limit may not apply, however, any interpretation by the CEO/ZBA should take into consideration this statement of intent re scale of accessory home businesses.
- d.C. (5) Home businesses shall be limited to a maximum of 3 non-resident employees. Seems likely more than 3 non-resident employees will be required for events of 150 people.
- e. F. Home businesses may include only those uses permitted or specially permitted within the zoning district in which the property is situated. T. Seneca Zoning Law section 13.0 lists 4 types of allowable home businesses in the Agricultural district. An event center would not fall under any of the uses listed.
- f. H. No vehicle trips generated by the home business shall be permitted between 9 pm and 7 am. It seems unlikely the event center will host only weddings that conclude before 9 pm.

Board Motion: To retain referral 40-2023 as a class 1 and return it to the local boards with comments and a determination of incomplete as the proposed use is not allowed by current regulations. **Motion made by:** AJ Magnan **Seconded by:** Roslyn Grammer.
Vote: 15 in favor, 0 opposed, 0 abstentions **Motion carried.**

41 -2023 Town of Seneca Planning Board and Zoning Board Class: 1
 Type: *Special Use Permit and Site Plan*

Applicant & Owner: *Joshua Douglas*

Tax Map Parcel #: *132.00-1-50.000*

Brief Description: *Site Plan and Special Use Permit to re-purpose three 384 SF storage buildings as single-bedroom cabins and construct one (1) 80 SF bathroom structure to be used for a short term rental home business on a residential parcel on the east side of SR14A in the Town of Seneca.*

<https://ontariocountyny.gov/DocumentCenter/View/37561/41-2023-Aerail>

<https://ontariocountyny.gov/DocumentCenter/View/37573/41-2023-site-plan>

The cabin area will have its own driveway and septic system. The existing Agricultural zoning district has no provisions to allow camping cabins in conjunction with a residential use. The referring body staff has indicated the Town of Seneca is interested in revising its zoning regulations to accommodate the proposed use.

Comments

1. The referring body should refrain from action on the site plan and special use permit application until after amendment of zoning district regulations. The Town of Seneca should avoid authorizing a wide range of non-farm commercial uses in the Agricultural district.
2. Zoning/special use regulations for camping cabins should address buffering/limiting land use conflicts; water/waste water system; access; and differentiate such use from year-round residential housing.
3. What are provisions for cabin generated solid waste disposal?
4. The Town of Seneca Town Board may want to consider whether to add a code chapter regulating short term rental businesses.

NYS DOT Comments

1. The proposed driveway should be a minimum of 5' from the property line with the property line extended out to the road. The site plan shows the proposed driveway taper crossing the property line.

CPB Comments

1. In response to Board comments the applicant offered the following additional information. The three buildings proposed for use as short-term rentals are existing storage buildings.
2. In drafting appropriate definition and special use permit standards for the proposed use the Seneca Town Board should consider adequacy of emergency access, public water and private septic system, lighting, and parking
3. The buildings may require alterations to meet residential occupancy requirements.

Board Motion: To retain referral 41-2023 as a class 1 and return it to the local board with comments and a determination of incomplete as the proposed use is not allowed by current regulations. **Motion made by:** Shawna Boneshak **Seconded by:** Tammy Worden.

Vote: 15 in favor, 0 opposed, 0 abstentions **Motion carried.**

42 -2023 Town of Canandaigua Town Board Class: 2
 Type: *Text Amendment*
 Applicant: *Town of Canandaigua*

Brief Description: *Local law amendment to revise zoning code sections 220-9 and 1-17 regarding the definition of watercourse.*

<https://ontariocountyny.gov/DocumentCenter/View/37566/42-2023-Watercourse-update--Redline>

The intent of the amendment is to identify which streams are subject to building stream setback requirements based on readily available NYS DEC and Town of Canandaigua mapping not seasonal flow which would require additional analyses.

Comments

1. The referring body should consider adding NYSDEC definitions of stream bed and possibly bank to clarify procedure for measuring required building setback.
2. The referring body should consider whether any setback is desirable for other site disturbances such as grading, parking, or impervious area not connected to a stormwater management system.

Board Motion: To retain referral 42-2023 as class 2 and return it to the local board with a recommendation for approval with comments. **Motion made by:** Tammy Worden **Seconded by:** Roslyn Grammer

Vote: 15 in favor, 0 opposed, 0 abstentions **Motion carried.**

43- 2023 Town of East Bloomfield Planning Board Class: 1
 Type: *Special Use Permit*

Applicant & Owner: *Adam & Ashley Delong*

Representative: *Lindsey Tidd*

Tax Map Parcel #: *66.00-3-31.100*

Brief Description: *Special use permit for 5 buildings with 3,900 SF of mini storage use on newly subdivided 1.8-acre parcel east of Cannan Road north of SR 5/US 20 in the Town of East Bloomfield.*

<https://ontariocountyny.gov/DocumentCenter/View/37562/43-2023-Aerial>

<https://ontariocountyny.gov/DocumentCenter/View/37567/43-2023-current-taxmapT-EastBloomfield>

<https://ontariocountyny.gov/DocumentCenter/View/37574/43-2023-22-229--single-page-submittal-set-21323>

The parent parcel was recently subdivided to create the 1.8-acre lot proposed for development of commercial mini-storage and a 9.1 acres remainder lot for the existing business. The parent parcel (66.00-3-20.110) was also recently reviewed as referral 58-2022 in April 2022 for a site plan to construct three 1,560 SF storage buildings for the existing business.

Perimeter landscaping is proposed for the Cannan Road frontage and north and south property lines. There is a stormwater management facility proposed along Cannan Road. Lighting plan indicates light levels at the property will be 0.1 fc or less.

Comment

1. The East Bloomfield Town Board should consider adjusting the boundary of the Community Commercial zoning district in this area to follow property line and minimize the number of lots with land in more than one zoning district.

Board Motion: To retain referrals 34-2023, 38-2023, 39-2023, 43-2023, 44-2023, 45-2023, and 46-2023 as class 1s and return them to the local boards with comments. **Motion made by:** Steve High **Seconded by:** Roslyn Grammer
Vote: 15 in favor, 0 opposed, 0 abstentions **Motion carried.**

Board Motion: To accept late referrals 44-2023, 45-2023, and 46-2023. **Motion made by:** Doug Dello-Stritto.
Seconded by Len Wildman. **Motion carried.**

44 -2023 Town of Hopewell Planning Board Class: *1 Late Referral*
Type: *Site Plan*

Applicant: *Mark's Engineering*

Property Owner: *Finred, LLC*

Tax Map Parcel #: *99.00-1-7.00*

Brief Description: *Site plan for sign at Mark's Engineering, 4303 SR 5/US 20 in the Town of Hopewell.*

The proposed sign is 7 SF and will be mounted on the building.

Board Motion: To retain referrals 34-2023, 38-2023, 39-2023, 43-2023, 44-2023, 45-2023, and 46-2023 as class 1s and return them to the local boards with comments. **Motion made by:** Steve High **Seconded by:** Roslyn Grammer
Vote: 15 in favor, 0 opposed, 0 abstentions **Motion carried.**

45 -2023 Town of Richmond Zoning Board of Appeals Class:*1 Late Referral*
Type: *Special Use Permit*

Applicant: *Cassara Met Group*

Property Owner: *Tony Cassara*

Tax Map Parcel #: *135.20-2-4.210*

Brief Description: *Special Use Permit to renovate and operate a short-term rental*

accommodation business in an existing home east of the intersection of SR 20A and CR 36 in the Town of Richmond.

The application materials characterize the property as a single-family home in need of repair. The property is .24 acres
According to OnCor, the property does not appear to have a driveway.

According to OnCor, the adjacent property to the east is a 3-family residential use and the property further east is part of Sandy Bottom Park. The property to the west is a detached row building. There is a 0.6-acre landlocked property to the south of the proposed Short-Term Rental along the Creek. This property also abuts Sandy Bottom Park. The subject property, portions of the property to the west and properties to the south and to the east as far as opposite Dolco are in the existing 100-year floodplains. The entire property to the west is in the draft 100-year floodplain.

Comments

1. In accordance with Richmond Town code chapter 120 new construction and substantial improvement (investment equal to 50% of the market value of the structure) requires anchoring and construction materials and utility equipment resistant to flood damage. The Flood damage prevention regulations also require that enclosed areas below first floor such as cellars or basements are designed to automatically equalize flood forces on exteriors walls and require professional engineer or architect certification if utilities are located below the base flood elevation. What provisions have been made to prevent flood damage and has a development permit been requested?
2. How many bedrooms does house have and what occupancy limit will the owner apply to this property? Is on-street parking available to accommodate intended occupancy?
3. The referring body should examine whether the landlocked parcel along the creek has an access easement. The proposed STR property is unlikely to be involved in providing access, however, the referring body should contact the property owner and encourage them to formalize access through an adjacent property.

Board Motion: To retain referrals 34-2023, 38-2023, 39-2023, 43-2023, 44-2023, 45-2023, and 46-2023 as class 1s and return them to the local boards with comments. **Motion made by:** Steve High **Seconded by:** Roslyn Grammer
Vote: 15 in favor, 0 opposed, 0 abstentions **Motion carried.**

46 -2023 Town of Richmond Zoning Board of Appeals Class:*1 Late Referral*
Type: *Area Variance*

Applicant &Owner: *Paul & Beth Borowy*

Tax Map Parcel #: *149.11-1-40.000*

Brief Description: *Area Variance to reduce front setback to 20' when 50' is required for a proposed home is along the west side of CR 36 in the Town of Richmond.*

The project site is .54 acres with frontage on both Old East Lake Road and CR 36. The property is not constrained by floodplains or wetlands. There are areas of 16 to 30 percent slope along both frontages and in other areas of the lot. Based on the proposed location of the house, it appears the applicant intends vehicle access to be from Old East Lake Road. The application narrative indicates the reason for requesting the variance is to avoid the cost of building on steeply sloped portions of the site, though no site plan is provided to show the proposed house location in relation to steep slope areas. It appears adjacent homes on the east side of CR 36 have setbacks of 20' or less from Old East Lake Road.

Board Motion: To retain referrals 34-2023, 38-2023, 39-2023, 43-2023, 44-2023, 45-2023, and 46-2023 as class 1s and return them to the local boards with comments. **Motion made by:** Steve High **Seconded by:** Roslyn Grammer.

Vote: 15 in favor, 0 opposed, 0 abstentions **Motion carried.**

General Information

The Ontario County Planning Board (CPB) was established by the Ontario County Board of Supervisors under the provision of NYS General Municipal Law Article 12-B Section 239-c. County Planning Boards. The state legislature determined in §239-c. 1. (a), (b), (g) & (f):

1. Legislative findings and intent. The legislature hereby finds and determines that:

(a) Significant decisions and actions affecting the immediate and long-range protection, enhancement, growth and development of the state and its communities are made by county planning boards.

(b) County planning boards serve as an important resource to the state and its localities, helping to establish productive linkages between communities as well as with state and federal agencies.

(f) The great diversity of resources and conditions that exist within and among counties requires consideration of such factors by county planning boards.

(g) It is the intent of the legislature therefore, to provide a permissive and flexible framework within which county planning boards can perform their power and duties.

Note: I, (d), and (e) refer to the county comprehensive plan.

The CPB membership consists of one representative from each of the 16 towns and 2 cities who are selected by the town board or city council and formally appointed by the Board of Supervisors for terms of 5 years. Members representing a town, also represent any village(s) located with the town.

General Summary of CPB Review Responsibilities

This section provides a general summary of the CPB's roles and responsibilities. The specific responsibilities of a county planning board are found in §239 l, m, & n and the CPB Bylaws approved by the Ontario County Board of Supervisors. (Links: Complete §239 text Page151: [Guide to NYS Planning and Zoning Laws](#) and [Ontario County Planning Board Bylaws under "Quick Links"](#))

The Ontario County Planning Board reviews certain zoning and planning actions prior to the final decision made at the village, town, or city level and makes a recommendation to the municipality. Although CPB review is required, the action is advisory in nature and can be overridden at the local level (super majority if a recommendation for denial or approval without recommended modification).

NYS law spells out the types of actions reviewed by the CPB:

- Adoption or amendment of zoning regulations (text and/or map)
- Comprehensive plans
- Site plan approvals
- Special use permits
- Variances
- Any special permit, exception, or other special authorization which a board of appeals, planning board or legislative body is authorized to issue under the provisions of any zoning ordinance
- Subdivisions

NYS law specifies that CPB is required for the above actions to occur on real property lying within a distance of 500 feet from any:

- Boundary of any city, village, or town boundary
- Existing or proposed county or state park or other recreation area,
- Right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, existing or proposed right-of-way,
- Stream or drainage channel owned by the county or for which the county has established channel lines, or

- Existing or proposed boundary of any county or state-owned land on which a public building or institution is situated.

General Procedures

The Ontario County Planning Board meets once each month to review referred local actions for intermunicipal and countywide impacts. They are separated into two categories: Class 1 & Class 2. Class 1s are applications that the CPB has formally decided have little potential intermunicipal or countywide impact. For Class 2 applications, the CPB has determined that there will be potential impacts before voting to approve, modify or deny.

Legal Obligations for Referring Agencies

Class 1: If an application has been returned to the referring agency as a Class 1, then the only requirement is that they consider any Board comments forwarded to them by the CPB. Referring agencies are asked to read any Board Comments into the minutes of a meeting or hearing held for the subject application.

Class 2: If the CPB has voted to deny or modify a referred application, then the local board needs a majority plus one vote of their full board to act contrary to that decision. CPB approvals without modification require no extraordinary local action. However, in all cases, the referring agency is still required to consider CPB comments as they would for Class 1 applications.

Incomplete Applications

Referrals need to meet the definition of “full statement of such proposed action” in NYS General Municipal Law. The CPB’s determination regarding the completeness of a particular application is supported by factual findings and is made, whenever practical, after consulting with the submitting official or the chairs of referring agencies. The CPB will not make a recommendation on an application that they have determined to be incomplete. NYS General Municipal Law, Article 12-b Section 239-m I

Reporting back to the CPB

Report of final action – Within thirty days after final action, the referring body shall file a report of the final action it has taken with the county planning agency or regional planning council. A referring body which acts contrary to a recommendation of modification or denial of a proposed action shall set forth the reasons for the contrary action in such report.”

NYS General Municipal Law, Article 12-b Section 239-m, Part 6.

Administrative Reviews

The Ontario County Planning Department prepares administrative reviews of referrals as authorized, in accordance with the CPB bylaws. The bylaws include criteria that identify applications that are to be reviewed administratively and specify the applicable recommendations that are to be made to the municipality. AR 1 is an administrative review that is a Class 1 and AR 2 is a review that is a Class 2. An AR 2 requires a majority plus one for the local board to act contrary to the recommendation for disapproved just like Class-2 referrals reviewed by the full Board. The following table summarizes the policies under which administrative review is allowed and guidance regarding class designation and recommendation based on the CPB bylaws.

Administrative Review (AR) Policies: – Ontario County Planning Board By-Laws Appendix D	
AR Policy 1	Any submitted application clearly exempted from CPB review requirements by intermunicipal agreement
AR Policy 2	Applications that are withdrawn by the referring agency
AR Policy 3	Permit renewals with no proposed changes
AR Policy 4	Use of existing facilities for a permitted use with no expansion of the building or paved area (Applications that include specially permitted uses or the addition of drive through service will require full Board review)
AR Policy 5 A. Class 2 Denial	Applications involving one single-family residential site infringing on County owned property, easement or right-of-way.
AR Policy 5 B. Class 2 Denial	Applications involving one single-family residential site adjoining a lake that requires an area variance for lot coverage or for a lake or side setback.
AR Policy 5 C.	All other applications involving a site plan for one single-family residence.
AR Policy 6	Single-family residential subdivisions under five lots.
AR Policy 7 A. Class 2 Denial	Variances for signs along major designated travel corridors.
AR Policy 7 B.	Applications involving conforming signs along major travel corridors.
AR Policy 8	Co-location of telecommunications equipment & accessory structures on existing towers and sites (Applications that require a special use permit or for new towers or increasing the height of an existing tower require full Board review)

- **Final Climate Action Council Scoping Plan** – Planning Director Tom Harvey shared information on Ontario County Comments on NYS Climate Action Council Draft Scoping Plan. Many topics remain unaddressed in the final Plan <https://ontariocountyny.gov/DocumentCenter/View/37715/CAP-Scope-Presentation2tph>
The presentation reviewed:
 - Greenhouse gas (GHG) emission targets and renewable electricity targets of the Climate Leadership and Community Protection Act of 2019 (CLCPA). Including new target of 33,000 MW of off-site renewable electric generation by 2050.
 - Existing upstate and downstate renewable energy mix.
 - NYS Reliability Council recommends an additional 50,000 MW reserve beyond 33,000 MW target of renewable energy by 2050 to meet 2040 CLCPA requirements, electrification of transportation sector, & grid reliability.
 - Implementing electric grid reliability targets with solar alone would require 165,000 to 330,000 acres of land, primarily in upstate. For comparison Ontario County contains 424,000 acres.
 - Renewable energy requirement targets do not take into account the potential for increased A/C use in conjunction with transition to heat pumps. Nearly 2/3 of Ontario County residential buildings do not currently have central A/C.
 - Now that Climate Action Council Scoping Plan is finalized, can expect NYSDEC to promulgate greenhouse gas (GHG) emission limits by 1/1/24. Limits likely to include new regulations on:
 - a. Landfill operations
 - b. End date for installation/sales of gas appliances and heating systems
 - c. End date for sale of fossil fueled vehicles
 - d. End date for new building natural gas hookups.
 - CLCPA goal to direct 40 percent of clean energy investments to disadvantaged communities to redress the geographic inequities of existing pollution, climate change and public health impacts. Not yet guidelines on what constitutes spending for the benefit of a disadvantage community. Scoping plan does not address transition impact on rural poor living outside disadvantaged communities/poverty concentrations who have no access to public transportation/heavy reliance on older vehicles and reliance on rental housing where landlords have little incentive to invest in weatherization/efficiency improvement as tenants pay utilities
 - Unlikely NYS can reach goal of 300,000 zero emission personal vehicles by 2030 as only 231,000 EVs sold nationwide in 2022.
 - EV battery technology issues in cold climates. Extended charging times below 32° F, range may reduce to 25 percent at 10° F, and vehicles may fail to charge below 10-15 °F.
 - Passage of CLCPA has dampened industrial sector business investment and utility company investments in gas distribution infrastructure,
 - Climate Council Scoping Plan does not protect forests and their carbon sequestration value from clear cutting for solar development, does not count conversion of agricultural land that is classified as prime if drained (in Ontario County much such land is drained and such lands statewide constitute a majority of prime ag land), and does not call for sharing impact fees collected for conversion of prime agricultural lands to renewable energy generation to fund agricultural land preservation
 - Provided brief updates on status of consultation selection for Parks and Recreation Master Plan, and capital improvement design at Ontario Beach Park,

○ **Review of CPB Annual Report**

Board Motion: To forward County Planning Board Annual Report to Planning and Environmental Quality committee and Board of Supervisors. **Motion made by:** Steve High. **Seconded by:** AJ Magnan. **Motion Carried.**

○ **Board Vacancies** –T. Hopewell,

○ **Upcoming Training**

See <https://www.ontariocountyny.gov/192/Training> for up to-date list of training opportunities.

Thursday April 13, 5 to 8:30 PM 2023 Floodplain Regulations for Local Review Boards and Affordable Housing, presentation by NYSDOS in conjunction with Ontario & Yates County Planning at Safety Training Facility 2914 CR 48 Hopewell.

Thursday May 18, 2023 all day *GFLRPC Spring workshop Batavia*

Hancock Estabrook. Municipal Bootcamp registration link, dates and topics listed below <https://www.hancocklaw.com/events/2023-municipal-bootcamp/>

Thursday, March 23, 2023 from 6 to 7 pm Managing Development of Solar Projects

Thursday, April 27, 2023 from 6 to 7 pm State Environmental Quality Review- SEQR

Thursday, May 25, 2023 from 6 to 7 pm Financing Your Future

Thursday, June 22, 2023 from 6 to 7 pm Specialized Zoning Tools

Thursday, July 27, 2023 from 6 to 7 pm Local Regulation of Cannabis

Thursday, September 28, 2023 from 6 to 7 pm Transforming Former Industrial Properties

Thursday, October 26, 2023 from 6 to 7 pm Preventing Sexual Harassment

Thursday, December 14, 2023 from 6 to 7 pm Case Studies – good and bad of 2023

The NY Conference of Mayors also offers virtual and recorded webinars for member villages and cities <https://www.nycom.org/training/webinars>

- **Privilege of the Floor** There was a request that the 15 minute Planning Director presentation receive training credit.
- **Adjournment:** Being no further business for discussion, Chair Paul Passavant requested a motion to adjourn. **Motion to adjourn made by:** Steve Groet **seconded by:** Mike Crowley **Motion carried** 3/8/23 CPB meeting adjourned at 9:33 PM.