

ONTARIO COUNTY PLANNING BOARD

Referrals for Review at the: **Coordinated Review Committee Meeting –November 8, 2022 at 3:30 20 Ontario Street–
County Planning Board Meeting –November 9, 2022 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>

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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_	Applicant	Application Type	Class	Page
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Call To Order/Roll Call: Chair Wildman called the 11/9 /22 CPB meeting to order at 7:12 and requested Ms. Holley to do roll call. Ms. Holley presented roll call and reported that there were ten (10) members present physically at 20 Ontario Street, meeting the quorum requirement.

Guests: Nina Tillman, incoming T. Phelps CPB representative; Tom Harvey Director, Ontario County Planning Department.

Minutes:

- Motion made by *Tammy Worden* to approve the October 12, 2022 minutes with revisions to 196-2022 regarding review by Canandaigua Watershed Manager, seconded by *Bessie Tyrrell* **Motion carried.**

Cities	Member name in bold if on local legislative, planning, or zoning board	P-Present / V – Virtual	A – Absent, E – Excused Absence
Canandaigua	Doug Dello Stritto	P	
Geneva	Paul Passavant	P	
Towns			
Bristol	AJ Magnan ZBA	P	
Canadice	Stephen Groet PB	P	
Canandaigua	Shawna Bonshak		E
East Bloomfield	Mike Woodruff PB		E
Farmington	Ted Liddell		E
Geneva	Steven High	P	
Gorham	Gabrielle Harris	P	
Hopewell	Vacant	-----	-----
Manchester	Tammy Worden	P	
Naples	Marion Mueller		A
Phelps	Nina Tilman PB alt	Appointment 11/17	
Richmond	Leonard Wildman PB	P	
Seneca	Roslyn Grammar		E
South Bristol	Bessie Tyrrell PB	P	
Victor	Mike Crowley		E
West Bloomfield	Ruth Cahn ZBA	P	
Alternate Member	Jack Dailey		A

197 - 2022 Town of Victor Zoning Board of Appeals Class: 1

Type: *Area Variance*

Related Referral: 207-2022

Applicant: *Kevin & Julie Hook*

Property Owner: *Julie Hook*

Tax Map Parcel #: 26.00-1-47.230

Brief Description: *Area variance for placement of 240 SF shed forward of the front line of the residence at 7988 CR 41 in the Town of Victor.*

The proposed shed location is approximately 270' off a common driveway which runs parallel to CR 41 approximately 40 feet from the ROW. The shed location is adjacent to a turn-around on the private driveway and likely visible, though at a distance from the CR 41 road ROW.

Board Motion: To retain referrals 197-2022, 201-2022, 202-2022, 203-2022, and 205-2022 as class 1s and return them to the respective local boards with comments. **Motion made by:** Paul Passavant **Seconded by:** Tammy Worden **Vote:** 10 in favor, 0 opposed, 0 abstentions **Motion carried**

198 - 2022

Town of Seneca Planning Board

Class: 1

Type: *Site Plan*

Related Referrals: 207-2022

Applicant: *Jessica Gulvin*

Tax Map Parcel #: *new lot from 118.00-1-11.200 & 118.00-1-11.100*

Brief Description: *Site plan for 6,000 SF veterinary clinic at 3838 SR 14A, north of Yaegel Road in the Town of Seneca.*

<https://ontariocountyny.gov/DocumentCenter/View/36367/198-2022-aerial>

<https://ontariocountyny.gov/DocumentCenter/View/36366/198-2022-1-page-layout>

The site plan shows a 6,000 SF veterinary clinic adjacent to SR 14A in the Agricultural zoning district. The site plan also shows future building expansion, though this development is not addressed in the engineering report. There is an existing barn in the northeast corner of the property, indicated on the cover sheet of the site plan submission, and outside the area of the lot shown on the site plan.

The existing site drains southwest toward the roadside ditch which flows to off-site wetland of 53 acres. The proposed stormwater management facilities for the 6,000 SF proposed building include 2 dry swales with 225 linear feet/1,234 cubic feet to convey water to pocket pond with deep forebay. Green infrastructure design elements include planning to reduce impact by minimizing area of clearing, avoiding development in sensitive areas, employing soil restoration, and minimizing driveway, parking, and sidewalk areas. Swales and underground storm sewers and catch basin are designed for 10 year storm, major culverts are designed for 25 year storm, overland stabilized flood routes are developed for 100 year storm, the pond detains 50 year storm, and the 100 year storm uses the spillway. The stormwater management facility outlets near the SR 14A drainage ditch. The stormwater management system is designed in basic compliance with NYSDOT and NYSDEC requirements based on soils observed.

The proposed building will be connected to public water and an on-site wastewater treatment system.

Comments

1. The referring body should clarify extent of parking area to be developed in conjunction with the initial 6,000 SF building.
2. Neither the site plan nor the engineering report indicates the size of the future garage and future building. The SWPPP indicates the total future building size is 17,840 SF. Is waterline and septic system/expansion area sufficient to service the future building?
3. The proposed stormwater management facility and dry swales/green infrastructure are designed for the 6,000 SF proposed building only. Additional facilities will be needed for future site development.
4. Apply fertilizer as indicated by soil testing as necessary for establishment of vegetation.
5. Referring body to clarify the lot size. SWPPP says 5.867 acres once proposed subdivision is complete, SEQR says 4 acres.

OCSWCD Comments

1. Any existing agricultural tile drainage will need to be addressed and provided an adequate outlet away from building, septic and stormwater facilities.
2. Fertilizer should be zero phosphorus unless soil testing indicates need.
3. Roof runoff from north east portion of Veterinarian Clinic Building appears to be directed near the northern area of septic absorption area. All water should be diverted away from absorption area.

NYSDOT Comments

1. NYSDOT regional office has received plans for review.

CRC Comments

1. Does the driveway have adequate sight distance for entering/exiting maneuvers of vehicles with animal trailers, given the dips and curves in STR14A at this location?
2. Building orientation with long axis perpendicular to the road, parking to the side or rear of the building, and clustered frontage landscaping with a number of native species is desirable to preserve the rural character of this primary tourism corridor.

CPB Comments

1. The subdivision and related deed, for creation of the lot on which the proposed use would be located, has not been submitted to the Ontario County Real Property Tax Service Agency. Without a record of the lot, the referring body cannot appropriately assess the suitability of the proposed site plan.
2. If initial or long term site development involves boarding or day occupancy of large animals, what provisions are planned for manure management?

Board Motion: To change referral 1098-2022 to a class 2. **Motion made by:** Paul Passavant **Seconded by:** Tammy Worden **Vote:** 10 in favor, 0 opposed, 0 abstentions **Motion carried**

Findings: Ontario County has an interest in ensuring local municipalities follow procedures outlines in NYS statute and local municipal law for approving subdivisions, recording lots, and review of site plans and special use permits.

Board Motion: To retain referral 198-2022 as a class 2 and return it to the local board with comments and as incomplete. **Motion made by:** Tammy Worden **Seconded by:** Paul Passavant **Vote:** 10 in favor, 0 opposed, 0 abstentions **Motion carried.**

199 -2022 Town of Gorham Zoning Board of Appeals Class: AR 2
 Type: *Area Variance*

Applicant: *Hanlon Architects*

Property Owner: *Bob & Kim Morgan*

Tax Map Parcel #: *113.11-1-36.000*

Brief Description: *Area variances for 672 SF replacement of single car garage. Project requires lot coverage variance for 44 percent lot coverage when 25 percent is required, 4.5' southside setback when 15' is required, 2' rear setback when 20' is required and 20.5' height when 14' is allowed at 3752 Meadow View Drive in the Town of Gorham.*

The requested lot coverage variance is slightly less than existing lot coverage of 46 percent. The proposed 2' rear setback, which is not a lake setback, also represents a slight increase from 0.4' existing setback.

**Policy AR 5 Applications involving one single family residential site, including home occupations.
 Part B Development of Lakefront Parcels.**

- B. The following applies to all development on parcels with lake frontage that require;
- variances pertaining to lot coverage or,
 - variances pertaining to side yard setbacks or,
 - variance pertaining to lake shore setbacks

The CPB's role of reviewing and making recommendations on county wide development has provided a unique perspective on the trend of more intensive development and use of lakefront lots. Of particular concern are the incremental negative impacts to water quality and the character of our lakefront neighborhoods. The following policy is a result of discussion and debate spanning 18 months as well as consultation with outside agencies directly involved with water quality issues in Ontario County. The intent is to address over development of lakefront lots and support the clearly stated interest by local decision makers to do the same.

Final Classification: 2

Findings:

1. Protection of water features is a stated goal of the CPB.
2. The Finger Lakes are an indispensable part of the quality of life in Ontario County.
3. Increases in impervious surface lead to increased runoff and pollution.
4. Runoff from lakefront development is more likely to impact water quality.
5. It is the position of this Board that the legislative bodies of lakefront communities have enacted setbacks and limits on lot coverage that allow reasonable use of lakefront properties.
6. Protection of community character, as it relates to tourism, is a goal of the CPB.
7. It is the position of this Board that numerous variances can allow over development of properties in a way that negatively affects public enjoyment of the Finger Lakes and overall community character.
8. It is the position of this Board that such incremental impacts have a cumulative impact that is of countywide and intermunicipal significance.

Final Recommendation: Denial

Comments:

1. The referring body is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot.
2. The applicant and referring agency are strongly encouraged to involve the Canandaigua Lake Watershed Manager as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures.

200 -2022

Village of Naples

Class: 1

Type: *Area Variance*

Applicant & Owner: *Naples Creek Properties*

Representative: *Scott Harter PE*

Tax Map Parcel #: *204.05-1-23.110*

Brief Description: *Area variances for 50' lot width at the ROW when 60' is required, minimum driveway width of 20' when 24' is required, 10' side setbacks on individual lots when 20' is required, minimum lot width of 51' when 60' is required, and 13 of 21 lots with rear setback of 20' and one lot with rear setback of 36' when 50' is required for new mobile home park off SR 53 in the Village*

<https://ontariocountyny.gov/DocumentCenter/View/36368/200-2022-aerial>

<https://ontariocountyny.gov/DocumentCenter/View/36369/200-20222-MHP-layout>

The proposed mobile home park site is 6.7 acres. Proposed individual lots meet the 6,000 SF minimum lot size, with the requested individual lot variances. The reduced 20' rear setbacks are for placement of homes on individual lots west of the proposed driveway. The requested 36' reduced rear setback is on the creek side of the driveway near the creek bend. Overall proposed density is just over 3 units per acre with proposed lots on 2.9 acres, 1 acre for driveway, and 2.9 acres of open space. The applicant indicates there is 43 percent overall open space when only 10 percent is required. The minimum proposed building setback to the Tannery Creek centerline is 70'. The project is expected to have public water and sewer.

According to OnCor, the slope of the property and the off-site property west of the creek are a mix of 0 to 3 percent and 4 to 9 percent. Slopes on the property to the east of the creek are predominately 31 to 60 percent. Given the slope information, the location of the existing floodplain in relation to the creek center line appears skewed. OnCor also shows the extent of the draft 100 and 500 year flood plains based on updated hydrological analysis.

The layout plan indicates a proposed stormwater management area on the northern portion of the property



The attached map shows the existing floodplain (blue hatch), the draft 100 year floodplain (green) and the draft 500 year floodplain (orange).

Comments

1. Referring body may need additional information on depth to groundwater in the area proposed for stormwater management, evidence of erosion/need for stream bank stabilization at the bend in the creek, the width of the stream channel, and the slope of the streambank to evaluate appropriate areas for placement of mobile homes and installation of public utility connections.
2. Expected final determination of draft floodplain extent in 2023 could negatively impact the affordability of mobile homes located east of the proposed driveway as flood insurance may be required.

OCSWCD Comments

1. Current FEMA floodplain maps are skewed. FEMA Q3 mapping indicates stream centerline approximately 50ft to the east (on hillside). Actual stream centerline would put a large portion of the property in the floodplain. Flooding a concern for units. Stream stabilization may be required for protection of units.
2. Tannery Creek is a Class C (Trout) stream. The area for stormwater management appears inadequate for treatment. More information is required to determine volumes etc.
3. No additional information provided, but assuming public sewer and water are anticipated for this project.

NYSDOT Comments

1. No site plan or highway work permit has been submitted. In response to an informal submission, NYSDOT offered the following comments
 - a) What are dimensions of existing entrance?.
 - b) What is the pavement thickness, and can it support the extra traffic?
 - c) Is existing driveway wide enough for 2 way traffic? What are radii for the driveway? Can new mobile homes come in to this site without issues?
 - d) Will sidewalks be required in the State right-of-way to connect up to the existing sidewalk?

CRC Comments

1. The referring body should ensure access and maintenance easement is filed to allow existing homes to continue to access the driveway and outline maintenance responsibilities.
2. The referring body should consider whether there are opportunities to make the driveway a through connection to minimize traffic entering SR 53 at the bottom of the hill. Though the speed limit in the Village of Naples is 30 mph, northbound vehicles coming down the hill are likely traveling faster at this location.
3. Another potential option to improve the safety of this new four-way intersection would be to request NYSDOT to restripe the SR 21 approach to meet SR 53 at a right angle to improve visibility up the hill and awareness of vehicles exiting the proposed driveway.

CPB Comments

1. The CPB applauds the applicant for proposing new affordable housing in Ontario County.
2. The existing C-2 zoning district does not allow freestanding residential uses. A preliminary review of Village of Naples Zoning district regulations suggests a mobile home park with a maximum of 2 units per acre and 25 percent public open space would be allowed if the site were rezoned to Planning Unit Development. A mobile home park with a maximum of 8 units per acres would be allowed by special use permit in the M-D Multiple Dwelling District.
3. The referring body should consider whether proposed overall layout is appropriate given lots labeled 14 to 21 are likely partially located in the existing floodplain and with additional lot area identified as subject to flood risk based on draft floodplain mapping.
4. The referring body should obtain additional information on site distance and vehicle operating speeds at the proposed driveway and explore off-site opportunities to improve the operating safety of the proposed 4 way intersection.

Board Motion: To retain referral 200-2022 as a class 1 and return it to the local board with comments. **Motion made by:** Doug Dello-Stritto **Seconded by:** Roslyn Grammar **Vote:** 10 in favor, 0 opposed, 0 abstentions **Motion carried.**

201 -2022

Town of Manchester Planning Board

Class: 1

Type: *Site Plan*Applicant & Owner: *Steve Myers*Representative: *Donald Lewis*Tax Map Parcel #: *11.00-2-47.110*

Brief Description: *Exempt two lot subdivision and site plan for shared access through existing homesite to home on new flag lot at 489 SR 21 south of Armington Road in the Town of Manchester.*

<https://ontariocountyny.gov/DocumentCenter/View/36370/201-2022-aerial>

<https://ontariocountyny.gov/DocumentCenter/View/36371/201-2022-variance>

Project area in on the east side of SR 21 and involves a 3.86 acre lot with a home and barn. The proposed lot includes 25’ of frontage on SR 21. The proposed access, however, is via a 20’ access and utility easement using the existing gravel driveway on the existing lot. The project includes grading so that stormwater drains to an existing drainageway that flows east across the parent parcel.

The Town of Manchester allows flag lots in the A-1 Agricultural district if adjacent land is not in common ownership - see 325-19 E.-1. The parent lot has 280’ of frontage which is not sufficient to meet the 175’ lot width requirement for 2 standard lots.

According to OnCor, the property and adjacent properties are in Ontario County Agricultural District #1 and not constrained by steep slopes, wetlands, or floodplains.

Comment

1. The referring body should consider whether road frontage and a potential future additional driveway are desirable at this location. NYS Statute allow local planning boards authorized to review subdivisions to approve lots without frontage on a public road if adequate access arrangement (such as the proposed easement) are in place.

CPB Comment

1. Desirable driveway/road connection spacing on a collector road with a speed limit of 45 mph or higher is 440’ including roads and driveways on both sides of the road. (see connection spacing table as referral 202-2022.

Board Motion: To retain referrals 197-2022, 201-2022, 202-2022, 203-2022, and 205-2022 as class 1s and return them to the respective local boards with comments. **Motion made by:** Paul Passavant **Seconded by:** Tammy Worden **Vote:** 10 in favor, 0 opposed, 0 abstentions **Motion carried**

202 -2022 Town of Manchester Zoning Board of Appeals Class: 1

Type: *Area Variance*

Applicant: *Walter Wimiarczyk*

Property Owner: *James Herberle*

Representative: *Marks Engineering*

Tax Map Parcel #:32.00-2-36.100

Brief Description: *Exempt two lot subdivision requires area variance for 43' frontage when 175' is required for new lot at 3815 SR 96 in the Town of Manchester.*

The proposed subdivision is on the south of SR 96 east of the Village of Manchester. The property is in the R-1 district which does not allow flag lots.

According to OnCor, the property is not in Ontario County Agricultural District #1 and not constrained by steep slopes, wetlands, or floodplains.

Comments

1. What are plans for remaining area of parcel?
2. How many lots can be served off a private road/driveway and what are development standards for a private road?

3. The applicant should identify and protect/repair any on-site agricultural drainage infrastructure.

Board Motion: To retain referrals 197-2022, 201-2022, 202-2022, 203-2022, and 205-2022 as class 1s and return them to the respective local boards with comments. **Motion made by:** Paul Passavant **Seconded by:** Tammy Worden **Vote:** 10 in favor, 0 opposed, 0 abstentions **Motion carried**

203 -2022

Town of Hopewell Planning Board

Class: 1

Type: *Site Plan*

Applicant: *Shawn Andrus*

Representative: *Marks Engineering*

Tax Map Parcel #: *73.00-1-24.133*

Brief Description: *Site plan for 2,400 SF horticulture pole barn and four greenhouses with a total of 12,000 SF at 3188 CR 4 east of Malone Road in the Town of Hopewell.*

<https://ontariocountyny.gov/DocumentCenter/View/36377/203-2022-aerial>

<https://ontariocountyny.gov/DocumentCenter/View/36374/203-2022-site-layout-landscaping>

The 2.6 acre project site is on the north side of CR 4 east of Malone Road. The proposed development will disturb 0.5 acres.

The proposed greenhouses area is located to the rear of the property. The site plan shows a Maidenhair tree and 10 white firs along the rear property line and 8 smoke bushes along each side lot line by the greenhouses. No frontage landscaping is proposed.

The proposed access driveway is located at the western property boundary.

According to OnCor the property and adjacent properties are in Ontario County Agricultural Districts #1. The property is not constrained by steep slopes, wetlands, or floodplains.

Comments

1. The referring body should consider whether frontage landscaping is required or desirable.
2. The referring body should require the applicant to show appropriate stormwater management including water quality and quantity management.
3. The proposed driveway is on the property line. The referring body should consider whether any side setback or shared driveway arrangements are desirable to ensure appropriate access spacing along CR 4. CR 4 is currently characterized as a minor collector road by NYSDOT. The following table summarizes desirable access connection spacing. The spacing standards include driveways on both sides of the road..

Posted Speed Limit	Connection Spacing (ft.)	
	Arterial	Collector or Local Through Road
35 mph or less	245	125
40 mph	440	245
45 mph or greater	660	440

OCSWCD Comments

1. Any existing agricultural tile drainage will need to be addressed and provided an adequate outlet away from

- buildings.
2. No stormwater management indicated for structures.
 3. Temporary diversion swales indicated in Erosion and Sediment Control Notes but not on drawing.\
- OCDPW Comments**
1. Applicant is required to obtain a highway work permit for any proposed work within a County highway right-of-way and shall pay all necessary fees & comply with all permit conditions and restrictions. Highway Work Permit forms and insurance requirements can be found on Ontario County website at <http://www.co.ontario.ny.us/1260/Highway-Work-Permits>
 2. Drainage along the County highway must be maintained. Applicant should include an appropriately sized driveway culvert on the site development plans.
 3. If the installation of any subsurface utilities across the road is necessary, these will be required to be directional bored. Open pavement cuts in the highway are not allowed.

Board Motion: To retain referrals 197-2022, 201-2022, 202-2022, 203-2022, and 205-2022 as class 1s and return them to the respective local boards with comments. **Motion made by:** Paul Passavant **Seconded by:** Tammy Worden **Vote:** 10 in favor, 0 opposed,0 abstentions **Motion carried**

204 -2022 Town of Richmond Zoning Board of Appeals Class: 1
 Type: *Area Variance*

Applicant & Owner: *Carlos Serrano*

Tax Map Parcel #: *135.20-2-45.000*

Brief Description: *Area variances to allow a home business in a residence on a small lot at 4825 CR 36 in the Town of Richmond zoned for Business use. The code requires business structures to be 50' feet from the boundary of any residential district. The existing residence is 17' from a residential lot to the south. Second area variance required to allow residential use on the 1st floor in the Business district.*

<https://ontariocountyny.gov/DocumentCenter/View/36375/204-2022-aerial>

The 0.29 acre lot on the east side of CR 36 is located in the E. Business district. Zoning regulations of the E. Business district prohibit location of a business structure within 50’ of the boundary of a residential district. The proposal is for a home occupation in the existing residence. The existing building is approximately 40’ from a home on the lot to the south which is in the A Residential-Agricultural district.

Home occupation is a retail cannabis business that anticipates operating as a delivery business.

Comments

1. Has applicant applied for a Conditional Adult-Use Retail Dispensary license?
2. Available and anticipated adult use retail cannabis dispensary licenses don’t differentiate between on-site retail distribution and delivery only businesses. The referring body should obtain additional guidance from the NYS Office of Cannabis Management regarding ability to appropriately condition business operations on continued residence in the building and delivery only business operation. Local governments are allowed to regulate the time, place, and manner of adult-use retail dispensaries, provided such regulations do

not make the operation of the license unreasonably impracticable as determined by the Cannabis Control Board.

CPB Comments

1. The Richmond Town Board opted out/does not allow adult use cannabis retail dispensaries or adult use cannabis on-site consumption establishments. Therefore, unless the Town Board votes to permanently reverse its opt-out, the proposed use is not allowed within the Town of Richmond,
2. If the Town Board reverses its opt out policy, then the referring body would have authority to examine the 5 variance criteria outlined in NYS law and weight whether the potential benefit of the variance to the applicant, outweighs the local burden.

If requesting an area variance, State law requires the applicant to show that the benefit the applicant stands to receive from the variance will outweigh any burden to health, safety and welfare that may be suffered by the community. State law requires the ZBA to take the following factors into consideration in making its determination:

- (1) whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by the granting of the area variance
- (2) whether the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance;
- (3) whether the requested area variance is substantial;
- (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (5) whether an alleged difficulty is self-created.

ZBA need not find in favor of the applicant on every one of the above questions. Rather, the ZBA must merely take each one of the factors into account. The ZBA may also decide that a lesser variance than the one requested would be appropriate, or may decide that there are alternatives available to the applicant which would not require a variance

Board Motion: To retain referral 204-2022 as a class 1 and return it to the local board with comments. **Motion made by:** Tammy Worden **Seconded by:** Bessie Tyrrell **Vote:** 10 in favor, 0 opposed, 0 abstentions **Motion carried.**

205 -2022

Town of Richmond Zoning Board of Appeals

Class: 1

Type: *Area Variance*

Related Referrals: 44-2022

Applicant & Owner: *Birdhouse Brewing Company*

Tax Map Parcel #: *135.20-1-16.100 & 135.20-1-17.000*

Brief Description: *Area variance for zero front and side setbacks when 5' side setback and 60' front setback is required. Variances to allow movable 128 SF walk-in cooler and roof structure over landscaped area at Birdhouse Brewing 8716 Main Street in the Town of Richmond.*

<https://ontariocountyny.gov/DocumentCenter/View/36365/44-2022-aerial>

<https://ontariocountyny.gov/DocumentCenter/View/36376/205-2022-site-plan-Birdhouse-Brewing-Company--10072022>

This site was previously reviewed as referral 44-2022 in March 2022 for site plan review. The previously reviewed site plan was not prepared and stamped by a licensed design professional nor based on a stamped survey. The site plan labeled as approved by the Town of Richmond and included with this referral is not signed by the chair of the Planning Board.

The requested setback variances are along the property line of two lots owned by the applicant. The requested variances relate to location of a shed/walk in cooler and proposed stage located to the rear of the main building and crossing the lot line,

Comments

1. At the time of previous site plan review were variances granted for location of retail sales booths closer than 60' from the SR 20A ROW granted?
2. The referral for internal setback variances suggests the referring body is not requiring the applicant to combine the two properties or to adjust the lot. In this case, the referring body may want to condition the variances on applicant ownership of both properties and require removal of the shed/cooler and other structure straddling the property line if one property and not the other is sold.
3. The site plan submitted with the request for area variances indicates decorative stones within the floodplain of Honeoye Creek. If these stones were placed by the applicant, they should be removed; the applicant is not allowed to modify property not owned without the owners permission. In addition, these stone could interfere with floodplain operations or pose a risk to downstream properties.

Board Motion: To retain referrals 197-2022, 201-2022, 202-2022, 203-2022, and 205-2022 as class 1s and return them to the respective local boards with comments. **Motion made by:** Paul Passavant **Seconded by:** Tammy Worden **Vote:** 10 in favor, 0 opposed, 0 abstentions **Motion carried**

206 -2022 Town of East Bloomfield Planning Board

Class:2

Type: *Text Amendment*

Applicant: *Planning Board*

Brief Description: *Text amendment to regulations for electronic changeable copy signs and banner signs in the Town of East Bloomfield.*

<https://ontariocountyny.gov/DocumentCenter/View/36378/206-2022-II-General-sign-regulations-135-102--10272022>

The proposed regulations require signs to be within 3' and 7' of ground level. The regulations allow on-premises banner signs during businesses hours as long as such signs are located outside the ROW.

CPB comments

1. See. <https://www.dot.ny.gov/divisions/engineering/real-estate/repository/cevms-criteria-for-website.pdf> for NYSDOT standards for dwell time, transitions, spacing, and brightness of commercial electronic variable message signs.

Board Motion: To retain referral 206-2022 as a class 1 and return it to the local board with comments. **Motion made by:** Doug Dello-Stritto **Seconded by:** Steve High **Vote:** 10 in favor, 0 opposed, 0 abstentions **Motion carried.**

207 - 2022 Town of Seneca Planning Board Class:1 Late Referral
Type: *Special Use Permit*

Related Referrals: Applicant: *Jessica Gulvin*

Tax Map Parcel #: *118.00-1-11.200*

Brief Description: *Site plan and special use permit for 6,000 SF veterinary clinic at 3838 SR 14A, north of Yaegel Road in the Town of Seneca.*

See information at 198-2022

CPB comment The subdivision and related deed, for creation of the lot on which the use subject to the special use permit would be located, has not been submitted to the Ontario County Real Property Tax Service Agency. Without a record of the lot, the referring body cannot appropriately assess the suitability of the proposed use on the proposed lot.

Board Motion: To accept late referral 207-2022 **Motion made by:** Paul Passavant **Seconded by:** AJ Magnan
Vote: 10 in favor, 0 opposed, 0 abstentions **Motion carried.**

Board Motion: To retain referral 207-2022 as a class 1 and return it to the local board with comments and as incomplete. **Motion made by:** Tammy Worden **Seconded by:** Len Wildman **Vote:** 10 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
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	Variations 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)

Summary of Discussion with Tom Harvey, Director, Ontario County Planning Department

1. OCPD shares CPB concern about the character and traffic impacts of development on primary tourism corridors. The character of these corridors impact local quality of life and the appeal of Ontario County to tourists.
2. County increasingly concerned about lack of affordable/workforce housing.
3. Past OCPD Directors and Board of Supervisors have not supported development of a County Comprehensive Plan. In part this lack of support stemmed from concern about the County overriding local land use authority. Now there is some recognition of value of pulling together functional plans into a unified vision with local municipalities responsible for implementing land use regulations that contribute to the overall County Vision be it allowing multi-family housing to address affordability gap or directing higher density residential uses and commercial and industrial uses in areas that can be served with public water and sewer to protect water quality. .
4. Tom committed to periodic briefing of CPB on relevant county studies and facilitating presentations by other County and OCPD staff.
5. In response to questions, discussed the number of communities that have partnered with Monroe County Water Authority to provide public water and the number of communities facing sewer capacity issues. The OC Board of Supervisors is currently exploring the OC role in provision of public water and sewer service in recognition that such capacity issues impact housing development/affordability and economic development.

Info Items

- Canandaigua Airport upgraded from local to regional airport based on level of traffic, types of aircraft and services offered.
- NYS Tax break for business purchase of Covid supplies – masks, sanitizer, extra dining space. Additional details available here <https://esd.ny.gov/covid-19-capital-costs-tax-credit>
- Opportunity to serve on Geneva/Phelps Rail Freight Corridor Plan steering committee and Housing Study Steering committee
- December 14 CPB pre-meeting Potluck – 6 pm

Upcoming Training

9 Counties Hosting 5 on-line Clean Energy related trainings It is important that 1 or more staff, or elected or appointed official from each municipality in Ontario County attend each of these events. Remaining 3 events:

Monday Nov. 14, 2022 from 5:00-7:00 p.m. - Clean Energy and Your Comprehensive Plan

Wednesday Nov. 30 from 3:00-5:00 p.m. - Overview of the Model Battery Energy Storage Law

from 5:30-7:30 p.m. - Battery Energy Storage for First Responders

Registration link <https://www.eventbrite.com/e/9-county-hosted-training-event-tickets-427469642207>

4th Thursday 2022 Monthly Municipal Boot Camp Program presented by MRB Group and Hancock Estabrook

<https://www.hancocklaw.com/events/the-2022-municipal-bootcamp/>

December 22, 2022 - 6:00 to 7:00 pm Santa's Nice and Naughty List – the best and worst of 2022

New York Planning Federation trainings are free if your municipality is a member.

Call or e-mail with membership number or to pay and participate as a non-member. 518-512-5270 or email nypf@nypf.org

NYPF Recorded Webinars THE ESSENTIALS OF PLANNING AND ZONING

Introduction to Planning, Zoning and Land Use
Everything You've Ever Wanted to Know About Preparing a Comprehensive Plan
Understanding and Applying SEQRA (NY State Environmental Quality Review Act)
The What, Why, and How of Site Plan Review
Common Mistakes and Mishaps in Site Plan Review

MEETING PROCESS AND COMMUNICATION

Enhancing Transparency Effectiveness in Planning Proceedings
Innovations and Best Practices for Planning/Zoning Boards
Engaging Diverse Communities and Dealing with Difficult People
Working with Elected Officials and Understanding Everyone's Role in Planning
The Open Meetings Law for Zoning and Planning Boards, Part 2
Working with Developers to Foster Investment in the Community
Communication, the Media and Social Media
Open Government and Planning and Zoning Decision Making

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

NYSCOM Recorded webinars

ACCESSING FEDERAL FUNDING FROM FEMA (recorded 7-29-20) | Speakers: Robert T. Kennedy, Mayor of the Village of Freeport and NYCOM President; J. Andrew Martin, CFM, Public Assistance Section Chief, NYS Division of Homeland Security and Emergency Services; Janet Plarr, Village Administrator, Village of Blasdell; and Donna Lyudmer, Village of Saltaire

ADOPTING LOCAL LAWS AND CONDUCTING REFERENDA | (recorded 6-24-21) | Speaker: Rebecca Ruscito, NYCOM Counsel

ARPA FUNDING: OVERVIEW OF ALLOWABLE USES AND OTHER REQUIREMENTS (recorded 8-3-21)

| Speakers: Peter Baynes, NYCOM Executive Director and Barbara VanEpps, NYCOM Deputy Executive Director

CELL TOWERS AND WIRELESS REGULATIONS AND A CASE LAW UPDATE (recorded 12-15-20) | Speakers: Wade Beltramo, NYCOM General Counsel and Rebecca Ruscito, NYCOM Counsel

CONDUCT MEETINGS NOW AND DOWN THE ROAD: NAVIGATING THE FUTURE OF MEETINGS AND HEARINGS AS COVID NUMBERS DROP (recorded 3-18-21) | Speakers: Wade Beltramo, NYCOM General Counsel; John Mancini, NYCOM Counsel and Rebecca Ruscito, NYCOM Counsel

ETHICS FOR ZBA AND PLANNING BOARD PROCEEDINGS (recorded 12-9-21) | Wade Beltramo, NYCOM General Counsel

FAIR HOUSING CONSIDERATIONS FOR MUNICIPALITIES (recorded 12-16-21) | Speakers: Charles Grieco, Bond, Schoeneck & King; Moderator: Wade Beltramo, NYCOM General Counsel

GRANTS TRAIN IS AT THE STATION: GET READY FOR THE RIDE AHEAD! | (recorded 5-6-21) | Speaker: Jim Thatcher, Manager, Community Development, C.T. Male Associates

LAWYERS AND ETHICS FOR ZBAS AND PLANNING BOARDS (recorded 12-10-20) | Speaker: Wade Beltramo, NYCOM General Counsel

NEW YORK'S MARIJUANA LEGALIZATION: WHAT DOES IT MEAN FOR LOCAL GOVERNMENTS? | (recorded 4-15-21) | Speakers: Wade Beltramo, NYCOM General Counsel; John Mancini, NYCOM Counsel; Rebecca Ruscito, NYCOM Counsel

PLANNING AND ZONING HOT TOPICS AND CASE LAW UPDATE (recorded 12-14-21) | Speakers: Terry Rice, Partner, Law Office of Terry Rice; Moderator: Wade Beltramo, NYCOM General Counsel

REGULATING CANNABIS OPERATIONS (recorded 12-7-21) | Speakers: Wade Beltramo, NYCOM General Counsel; Corey Auerbach, Barclay Damon, LLP

SOLAR PANELS, LARGE SCALE ENERGY GENERATION SITING, AND LOCAL ZONING (recorded 12-17-20) | Speakers: Wade Beltramo, NYCOM General Counsel and Rebecca Ruscito, NYCOM Counsel

- **Privilege of the Floor**
- **Adjournment:** Being no further business for discussion, Chair Wildman requested a motion to adjourn. *Motion to adjourn made by Steve High seconded by AJ Magnan Motion Carried .11/9/22 CPB meeting adjourned at 9:33 PM.*