

Town of Union Planning Board Minutes
Tuesday, September 25, 2007

A regular meeting of the Town of Union Planning Board was held on Tuesday, September 25, 2007 at the Town of Union Office Building, 3111 East Main Street, Endwell, New York. Chairperson McLain opened the Planning Board meeting at 7:00 p.m.

Members present: S. McLain, T. Crowley, A. Elwood, L. Miller, J. Rotella, B. Seliga, R. Signorelli

Members absent: None

Others present: Paul Nelson, Marina Lane, Alan Pope, Linda Vough, Deborah Cohen, James Kinne, Sarah Campbell, Tim Connolly, Jeff Hoskins, Christine Balsley, Colleen Bennett, Mark Bennett, Jeffrey Feinberg, Lil Bomysoad, John Black, Tera Doty, Joe Moody

A. CALL TO ORDER

Chairperson McLain opened the regular meeting of the Planning Board at 7:00 p.m.

B. APPROVAL OF SEPTEMBER 11, 2007 MEETING MINUTES

Chairperson McLain asked for a motion to accept the September 11, 2007 meeting minutes with the following two revisions:

- On Page 7 delete "Raymond Agnew" so the sentence reads "*Ms. Lane said Jimmy's Auto Works received his official Order to Remedy Violation for Sales of Vehicles in an Auto Repair Shop notice.*"
- Change the date in the header on Pages 2-8 from August 28, 2007 to September 11, 2007.

Motion made: B. Seliga

Motion seconded: A. Elwood

MOTION: Approving the minutes of September 11, 2007 as revised.

VOTE: **In Favor:** S. McLain, T. Crowley, A. Elwood, L. Miller, J. Rotella, B. Seliga, R. Signorelli

Opposed: None

Motion Carried

**C. 3600 AND 3606 COUNTRY CLUB ROAD; 3603 AND 3605 BEATRICE LANE:
Entertainment of a Motion to issue an Advisory Opinion to the Town Board
recommending denial of the Petition to Rezone**

A motion was made by Ms. Elwood and seconded by Mr. Signorelli to recommend to the Town Board they deny the Petition to Rezone, but was followed by a lengthy discussion before voting occurred.

After the motion had been made Mr. Pope pointed out that a Revised Site Plan had been distributed this week which showed changes to the entrances to the property on Hooper Road and Beatrice Lane and a change in the location of the building on the property. He asked for clarification on whether the Board's motion was on this Revised Site Plan or on the original plan used on August 28, 2007 when the Motion to Recommend the Town Board Approve the Petition to Rezone had been lost. Mr. Crowley agreed there should be discussion before the vote. Mr. Signorelli stated that the purpose of today's motion was only to restate the motion of August 28 in the negative and the Board should vote since the rezoning, not the site plan, was the subject in question.

The question arose as to whether the vote was necessary because the Planning Board would be giving only an Advisory Opinion to the Town Board. Chairperson McLain stated that the Town Board wanted a clear message of where the Planning Board stands by seeing a vote for either approval or denial of the Petition to Rezone. The lost motion by the Planning Board on August 28 did not do that. The Town Board had considered the rezoning application, but chose the option not to act, holding it over until their October 3 meeting so they could get a clearer idea of where the Planning Board stands. Mr. Pope suggested that if the Planning Board did vote that they make it clear whether the vote was based on the original application and whether the revisions had been studied enough to understand them.

Ms. Seliga reminded the Board that in the Future Land Use Plan currently being reviewed that the Board had agreed that the Hooper Road corridor was best categorized as Neighborhood Commercial. Mr. Nelson added that the back two parcels in the rezoning request had not been included in any of the discussions. He also reminded the Board that they had agreed that if a commercial use was going to be introduced to that area it would need to be compatible in scale and size to the surrounding properties.

Mr. Pope stated that he believed the term "Advisory Opinion" should actually be called a "Report" according to the Town Code. He read a section of the Code (05-96) which read in part:

Concerning a proposed amendment or change to the zoning map the Planning Board may make inquiry and determination concerning the items specified below:

- 1. the effect of the proposed amendment upon the development of the town envisioned by the Future Land Use and Transportation Plan,*
- 2. whether the uses permitted by the proposed change would be appropriate in the areas concerned,*
- 3. whether adequate public facilities and services including roads exist or can be created to serve the needs of any additional uses likely to be constructed as a result of the change, or*
- 4. such other and different matters as deemed appropriate under the circumstances.*

Mr. Pope was asked if the motion should be changed from an advisory opinion to a report. His response was that it should track the code and reflect the four considerations in the code. Chairperson McLain stated that Item 1 (the effect of the proposed amendment upon the development of the town envisioned by the Future Land Use and Transportation Plan) is relevant to this rezoning petition, and is currently being addressed as part of the Comprehensive Plan. The Board has zeroed in on that corridor and already has a map that indicates the proposed land use for that area.

Just before the final vote on the motion, Ms. Campbell, attorney for the applicant, stated that they were going to withdraw their application. Chairperson McLain asked Mr. Pope what the Board was to do, given this information. He stated that although the applicants said they were withdrawing, and the Board has no reason to believe they won't carry through, the withdrawal of their application has to be done through the Town Board. Mr. Nelson asked Mr. Pope if the developers withdrawing their vote would preclude them from making the same request at a different time and thus were simply trying to frustrate the Board into not taking a vote. Mr. Pope said the applicants would have to withdraw their application through the proper channels and then revise and revamp a new one and begin the process again. According to the Code, the Town Board would have to refer the rezoning application to the Planning Board again, even if it is the same.

After the lengthy discussion a decision was made to vote on the motion that was on the table.

Chairperson McLain asked for a motion to recommend the Town Board deny the Petition to Rezone.

Motion made: A. Elwood
 Motion seconded: R. Signorelli
 MOTION: Recommend Denying the Petition to Rezone.
 VOTE: **In Favor:** S. McLain, A. Elwood, L. Miller, J. Rotella,
 B. Seliga, R. Signorelli
Opposed: T. Crowley
 Motion Carried

Mr. Nelson then asked Mr. Pope about the Freedom of Information Act and how it pertains to the private e-mail addresses of Board members. Mr. Pope said that if the addresses were a record kept by the Town then he believed they were public information, but that he would need to research it to be sure. Mr. Nelson said that the Planning Department had a request that day from the applicant for the Chairperson's personal e-mail address. Mr. Nelson had agreed to forward the request to Chairperson McLain and provide her with the opportunity to contact the applicant if she wished. Mr. Nelson said it is preferred that all Board members be contacted in a very public way with all members getting the information at the same time so conversations are shared with all. Because of the Planning Department's refusal to disclose the e-mail address to the applicant and the negative impact it had, it was decided that a separate e-mail account through the Town website would be set up for all Board members. If someone communicates to one member, it will be received by all. Mr. Nelson also asked Mr. Pope his opinion on *ex parte* communication. It is Mr. Pope's understanding that there has never been a prohibition against it that he is aware of. He thought that, much like the Town Board, the Planning Board members are public officials and residents are allowed to contact them. If a Board member prefers not to have a dialog with someone, it would be his or her choice. He added that if the Board wants him to research the policy he would get back to them with his findings.

D. SOUTHERN TIER INSULATIONS – Discussion pertaining to soil stabilization wall design

Mr. Rotella recused himself and left the table during this discussion.

Ms. Lane stated that when the Site Plan for this project had been approved there was text on the plan that stated that at the time of its construction the wall surrounding the perimeter of the plan would have to be designed and approved. The developer had Keystone Associates finish the plan and each member of the

Board was given a copy. The stone wall is standard in developments along bodies of water, as it is able to sustain erosion from water. Mr. Rotella described the type of stone that would be used on the wall and Ms. Vough stated that, although their landscaping plan is not complete, the property will be attractive when done. It was noted that a parking space had been moved since the original plan was submitted. Ms. Lane said Mr. Harris approved the wall and said he would make the Certificate of Occupancy contingent on the applicant submitting an as-built for his review and approval. Mr. Nelson expressed a concern that, although the wall is appropriate for this project, he would not like it to be a precedent in an area such as Hooper Road where a more traditional retaining wall would be more appropriate.

Mr. Nelson also asked about the curb cuts shown on the Site Plan presented, as they differed from the original plan that was approved. Mr. Rotella agreed that the curb cut he had on his originally approved Site Plan did not appear. Mr. Nelson urged him to have an accurate Site Plan (as-built) drawn up showing the new location of the parking space, newly designed wall and all existing and future curb cuts. Failure to do that may cause him not to get a Certificate of Occupancy. Mr. Rotella agreed that he would have the updated plans done.

Chairperson McLain asked for a motion to approve the revised Site Plan.

Motion made:	T. Crowley
Motion seconded:	L. Miller
MOTION:	Motion to Approve the Site Plan
VOTE:	In Favor: S. McLain, T. Crowley, A. Elwood, L. Miller, B. Seliga, R. Signorelli
	Opposed: None
	Abstained: J. Rotella
	Motion Carried

E. COMPREHENSIVE PLAN DISCUSSION

Mr. Nelson discussed progress on the Comprehensive Plan. He said there are still minor things that have to be completed. He hopes to get the Technical Background Data that supports the Goals and Objectives and the Future Land Use Map done first and then do the Neighborhood Studies. He asked Chairperson McLean to plan on meeting with him before the next Planning Board meeting to review what has been completed and what is yet to be done. He also discussed having the Board work in small groups on areas that are not finished, possibly at the next meeting. Mr. Nelson asked Ms. Elwood if she had notes on Emergency Services and she said she believed she had a hard copy of those notes and would get them to Mr. Nelson. He also said that New York State has provided a grant to get a consultant to come in and review the three zoning ordinances for Union, Johnson City and Endicott and the possibility of combining

them from three to one. An RFQ still has to be done and they will be selecting a consulting firm to do that soon. Some amendments will need to be made to the PUD Ordinance and there will be some recommendations about shrinking the number of zoning categories.

F. OTHER SUCH MATTERS AS MAY PROPERLY COME BEFORE THE BOARD

Ms. Lane discussed Mr. Raymond Agnew versus the Star Auto repair shop. Ms. Lane explained that under the Zoning Code if you have an existing repair shop you cannot sell used vehicles. But if you have a license to sell vehicles, you automatically may have an accessory use to repair vehicles. Mr. Rafferty has suggested that the Code needs to be more consistent. Mr. Agnew, 1551 Union Center-Maine Highway, has a license to sell used vehicles and has applied for a use variance to allow another person to open a separate repair shop business on Mr. Agnew's property, to be considered at the next Planning Board meeting.

The issue is opposite for Mr. Dubey of Star Motors at 1694 Union Center-Maine Highway. The Town ordinance states that repair shops may not have cars waiting for repairs on site for more than ten days. Mr. Dubey received a variance to allow the storage of vehicles for greater than 10 days because the vehicles he repairs are of such a nature that it can take more than 10 days to get parts. According to Mr. Crowley, when Mr. Dubey received site plan approval for a repair shop, he agreed he would not sell cars. Ms. Lane stated that Mr. Dubey is selling some vehicles. Rather than concerns about the sale of vehicles, Mr. Crowley is more concerned about the area in back of his business where Mr. Dubey has what would be described as an unlicensed, unregulated junkyard with no stipulations on it. He believes there are wells in the area of the junk cars and said there is a day care center just down the street and there should be concern about the potential environmental effects that these vehicles are having. Mr. Pope suggested that Mr. Rafferty follow up on Mr. Crowley's concern.

Ms. Lane discussed Mr. Kashou's property at 1500 County Airport Road. The County and the Town have determined that the sluice pipes that were part of the approved plans will not be needed. The drainage ditch under Middle Stella Ireland Road has been widened, the Dimmock Hill driveway has been graded and the sluice pipe that goes across the road and Mr. Kashou's property is sufficient. He now has to submit as-builts, but that should go smoothly.

Ms. Lane also brought up Mr. Kashou's request for the Word of Life overnight event. Ms. Elwood had a letter with information about the event. It will be held on November 8 and 9 from 9 a.m. Friday night to 6 a.m. Saturday morning. The event will begin at the Binghamton Senators hockey game at the Arena, followed by a youth rally and gospel message at the Arena. At midnight the youth will be divided into 3 groups, under the supervision of approximately 20 to 30 staff, and will travel to three different venues: bowling, Binghamton University and Southern Tier Sports Center where there will be games set up on the field. Ms.

Miller stated that the neighbors around Mr. Kashou's facility should be notified about the event and the Board agreed. Several suggestions were discussed and it was finally agreed that Mr. Kashou should send letters to neighbors within ½ mile of his facility and should post signs on his property.

Chairperson McLain asked for a motion to approve the one-time use special event with the stipulation that the people within ½ mile in all directions will receive postage-paid letters from Mr. Kashou within one week prior to the event and that there be a minimum of three signs posted four days prior and removed with a minimum of 24 hours after the end of the event.

Motion made: L. Miller
 Motion seconded: J. Rotella
 MOTION: Motion to Approve the One-Time Use Special Event
 VOTE: **In Favor:** S. McLain, T. Crowley, A. Elwood, L. Miller, J. Rotella, B. Seliga, R. Signorelli
Opposed: None
 Motion Carried

Mr. Crowley asked when neighbors are notified of new construction like that of Mr. Malarkey's new project. Mr. Nelson said that the way the ordinance is written, the only required notifications are for subdivisions and special permits. Subdivisions actually require signs and notification in the newspaper. Rezoning requires written notification to people within a certain number of feet. Ms. Lane stated that a neighbor of the new project was disappointed that no one in the area was notified of the new construction. He had also asked if bushes could be put in between his home and the parking lot to screen the property.

Mr. Signorelli said that he has had people complain about the removal of trees from the new sub-division on Prescott Avenue. Ms. Lane was concerned because the sub-division has not been accepted yet. She will follow up.

Ms. Elwood was glad to announce that the Town of Union is having an update information meeting on flood mitigation in the Fairmont Park area Thursday night at 7:30 if anyone was interested in attending.

G. ADJOURNMENT

Motion made: B. Seliga
 Motion seconded: J. Rotella
 MOTION: Adjourning the meeting at 9:15 p.m.
 VOTE: **In Favor:** S. McLain, T. Crowley, A. Elwood, L. Miller, J. Rotella, B. Seliga, R. Signorelli
Opposed: None
 Motion Carried

Meeting Date

The next meeting of the Planning Board is scheduled for Tuesday, October 9, 2007 at 7:00 p.m.

Respectfully submitted,

Dawn Foti