

PLANNING BOARD MEETING  
MONDAY, AUGUST 10, 2015  
7:00 P.M. - TOWN HALL - 1529 NYS RTE 12  
BINGHAMTON - NEW YORK - 13901

PRESENT: Cynthia Paddick - Chairwoman  
Messer: Donnelly, Blythe and Carl

ALSO, PRESENT: Thomas Geisenhof - Assessor  
Alex Urda P.E. - Town Engineer  
Jim DiMascio - Town Board Member  
Michael Boland – Planning Board Alternate

ABSENT: Raymond Warren – Planning Board Member

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The meeting convened at 7:00 p.m., at which time Mrs. Paddick called the meeting to order and welcomed the audience. Mrs. Paddick read a statement which explained the Planning Board Mission, along with the Board's duties, functions and limitations. The first order of business is the approval of the minutes from the Regular Planning Board July 13, 2015 and Special Meeting minutes from July 20, 2015.

A motion was made by Mr. Blythe, seconded by Mr. Carl to approve the July 13, 2015 Planning Board regular meeting minutes.

Roll Call: Ayes – 5 Nays – 0 Absent – 1 (Warren)

A motion was made by Mr. Carl, seconded by Mr. Boland to approve the July 20, 2015 Planning Board special meeting minutes.

Roll Call: Ayes – 5 Nays – 0 Absent – 1 (Warren)

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**NEW BUSINESS – NONE**

**OLD BUSINESS/DISCUSSION**

- **JEREMY HILTS**-(Parcel B)- 1359 Upper Front St.- TM#111.12-2-8,111.12-2-7, 111.12-2-5.2 &111.12-2-4- Application for Parcel B Use and an Area Variance to allow a commercial use (bus tour parking) minimum lot width from 100' to 75' in a Commercial Development Zone.

Mrs. Paddick stated Nate Kirschner Engineer for the proposed Auto Zone and Jeremy Hilts bus project requested we table their application and asked for a special meeting prior to the public hearing on Tuesday, August 25, 2015.

What date would be convenient for all the Board Members to meet? All the Board Members agreed sooner the better. They decided on Monday, August 17, 2015 at 7:00 p.m. Mr. Kirschner will be notified along with the Zoning Board Members of the special meeting date if they wish to attend.

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**ADVISORY OPINION/REFERRALS**

- **UPS STORE** - Michael Belz / Mark Nagle- 1235 Upper Front St. - TM#111.20-2-1-Application for a use variance to utilize additional 3 flags as ground signs and an area variance to exceed the maximum signage allowed from 30' to 65.55'.

Mr. Urda stated upon reviewing the documents the site store location (behind the current Jrama's BBQ Restaurant) blocks the view of the UPS Store front. By doing so this creates the lack of visibility from the road. Which supports the applicant's hardship. The flags currently exist at the locations on the site plan, which are in the NYS DOT right-of-way and is not allowed. If approved it would be necessary to relocate and meet the appropriate setbacks. According to the Town Code the setback for the street right-of-way is 20 feet. Upon reviewing the site plan it appears there is nothing available at 20 feet from the right-of-way that is not paved for vehicular access lanes. The New York State Department of State "Municipal Control of Signs" flags and pennants are commonly regulated under sign regulations as sign substitutes. If the flags are inappropriately located they can mar landscapes, create visual clutter and distract motorists. We do not feel the flags as they exist or proposed are acceptable for roadside safety. The applicant will continue to have use of the pylon sign. Thought the flags are a minimal request, they are not in harmony with the intent of the Town sign code and maybe detrimental to the landscape and unsafe/distracting for motorists. Without a variance the applicant could apply for a temporary sign permit, but they still cannot be located in the NYSDOT right-of-way. They could consider directional signs, but typically they do not contain advertising or business matter. This is a Type II action under SEQR and is subject to Broome County 239 review. It is recommended an unfavorable advisory be forwarded to the Zoning Board of Appeals.

Mr. Geisenhof said due to the unsightly appearance and distraction of the flag type signage, the Ordinance Office Recommends that the Planning Board forward an unfavorable advisory to the Zoning Board of Appeals for the UPS Store application for a use variance to utilize an additional 3 flags as ground signs and an area variance to exceed the maximum signage allowed from 30' to 65.55'.

The applicant Mark Nagle was present to answer questions from the Board.

Mr. Carl stated the site plan indicates a different building (coffee house) being in front of your location. Why did you lease that spot if it isn't visible from the street?

Mr. Nagle said when we asked Mr. Kost for a site of the plaza it was the revised plan dated September 2004. When we signed the lease pre-construction ten years ago the building in front of our store was on the opposite side of the plaza. But Peoples Bank requested a drive thru, so they relocated the building in front of our store for better traffic flow. It is nearly impossible to see our business from the street.

Mr. Blythe asked if there is any other location to place the flags.

Mr. Nagle said there is 15' between the grass and sidewalk the rest is paved parking lot. There is nowhere else to place the flags, so they're visible.

Mr. Urda indicated we have not received Broome County or NYSDOT comments, but nothing can be placed in the state's right-of-way. You could consider directional signs with a small logo which would be less intrusive like Wendy's and Dunkin Donuts have.

Mr. Nagle said since the Red Barn (anchor store) moved out three months ago the plaza is empty. They had more square footage which is determines the sign size. Being behind another building it makes it very difficult to be seen. For business purposes the flags did help, as to how much I couldn't say. We had people coming in saying they didn't know we were here.

Mr. Carl asked if the plaza identifier sign is illuminated.

Mr. Nagle indicated the sign is illuminated. However, the pylon sign you can only see coming down Upper Front Street. Going up Upper Front Street the sign is blocked by the Kost Tire pylon sign. Visibility is very difficult, especially since now the plaza is empty. Can we move the flags back inside the curb area? Does it have to be 15' back from the curb?

Mrs. Paddick stated it has to be out of the State's right-of-way. We cannot approve anything being placed in the NYS DOT right-of-way.

Mr. Donnelly suggested moving the flags in a different location.

There being no further discussion a motion was made by Mr. Donnelly, seconded by Mr. Carl for an unfavorable advisory. Since you cannot place anything within the NYS DOT right-of-way, it is not allowed and there is no other location to place the flags an unfavorable advisory is recommended.

Roll Call:           Ayes – 5           Nays – 0           Absent – 1 (Warren)

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- **BETTY WHITE** – 4 Palmer Rd- TM#112.06-5-30-Application for a use variance to allow a 2 family home in a residential zone and an area variance for front yard setback from 30' to 6'-7".

Mr. Urda stated upon reviewing the application and going over it with Mr. Geisenhof correspondence records. The owner purchased the property knowing that variances would be necessary and the hardship would be self-created if they intend to create a two-family dwelling. The applicant originally was interested in a granny flat, later switched to an addition connected by a mud room. The new addition will have a self-sustaining setup with kitchen and garage. The application conforms to the Town Code. However, the hardship is self-inflicted regarding the two-family dwelling request. There is no objection to the front yard setback since the existing and adjacent building appear to have the same setback. This is a Type II action under SEQR and subject to Broome County 239 review.

It is recommended that an unfavorable advisory be forwarded to the Zoning Board of Appeals. We question if an alternative configuration could be developed that would not be construed as a two-family residence by code.

Mr. Geisenhof stated that given the extensive amount of time and guidance given to the new owners of this property, explaining that they would be creating their own hardship if they bought this home knowing that a use variance was required for the creation of a two-family dwelling, the Ordinance Office recommends that the Planning Board forward an unfavorable advisory to the Zoning Board of Appeals for the application for a use variance to allow a 2-family home in a residential zone and an area variance for front yard setback from 30' to 6'-7".

There was no representation for this application.

Mrs. Paddick stated we spoke about this during one of our Comprehensive Plan meetings, having granny flats or similar type housing added to the code as long as it is a family member.

Mr. Donnelly indicated it is difficult to monitor a single family with a mother-in-law apartment. Once it gets sold it becomes a two-family.

Mrs. Paddick said it is becoming more common taking care of an elderly parent. It is something we need to consider and address.

Mr. Geisenhof stated what constitutes a two-family, the 911 location and the number of electric meters.

Mr. Urda said the applicant indicated a granny flat, then an addition, with a mud room connecting the two buildings. But with the separate kitchen, entrance and detached garage, that to me indicates a two-family dwelling.

There being no further discussion a motion was made by Mr. Donnelly, seconded by Mr. Carl for an unfavorable advisory to the Zoning Board of Appeals due to the hardship being self-created.

Roll Call:        Ayes – 5            Nays – 0            Absent – 1 (Warren)

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- **JAMES POTENZIANO**- 52 Overbrook Dr. - TM#095.19-1-47-Application for triple area variance to allow a driveway setback from 10' to 2'-6", detached garage with less than required side yard setback from 10' to 7'-5" and exceed the garage height allowed from 16' to 19'.

Mr. Urda reviewed the applicants request for a triple area variance to reduce the driveway setback, side yard setback for a detached garage along with exceeding the maximum height allowed for a garage. Granting this request would be in harmony with the general purpose and intent of this chapter and would not be injurious to the neighborhood. The height of the garage will not be in contrast with the existing structure or adjacent residence. The variance for the driveway is to repair and extend the existing driveway.

Mr. Geisenhof recommended that the Planning Board forward a favorable advisory to the Zoning Board of Appeals for the triple area variance to allow a driveway setback from 10' to 2'-6", detached garage with less than required side yard setback from 10' to 7'-5" and exceed the garage height allowed from 16' to 19'.

Mrs. Potenziano was present to answer questions from the Board.

There being no questions for the applicant a motion was made by Mr. Carl, seconded by Mr. Donnelly for a favorable advisory to the Zoning Board of Appeals with a building permit being required.

Roll Call:           Ayes – 5           Nays – 0           Absent – 1 (Warren)

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- **ARTHUR J. GRISWOLD** – 5 S. Frederick Rd. – TM#112.07-2-34 -Application for area variance to expand a driveway with less than required side yard setback from 10' to 1'-5" & use variance to allow a recreational vehicle (RV) forward of the front building line.

Mr. Urda stated upon reviewing the applicants request to expand their driveway with less than required side yard setback and to allow a recreational vehicle (RV) parked forward of the front building line in a residential area. The existing grades and fencings are the applicant's primary hardships for not being able to park the RV behind the house. This would deprive the applicant of the reasonable use of the land. Granting these variances would be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood.

This is project is subject to Broome County 239 review and is a Type II action under SEQR.

Given the consent of the immediate adjacent neighbor, a favorable advisory is recommended. Given the short distance requested we recommend the driveway layout be based on a known survey monuments

or survey stakeout to assure it does not encroach on the property line. Consideration should also be given to any variance being specific to this ownership and expire at the change of owners.

Since my letter we received a letter from the Mr. and Mrs. DeVoe at 10 S. Frederick Rd. concerned about the safety of children and the large vehicle being unsightly and does not belong in a residential neighborhood.

Mr. Geisenhof from the Ordinance office recommended that the Planning Board forward a favorable advisory to the Zoning Board of Appeals for area variance to expand a driveway with less than required side yard setback from 10' to 1'-5" and a use variance to allow a recreational vehicle (RV) forward of the front building line with the conditions that it be parked off site from November 1, to April 30 each year.

Applicants were present to answer questions from the Board.

Mrs. Paddick asked if they could park the RV off site.

Mr. Griswold stated his insurance would increase and would have to pay for storage, which is very expensive.

Mr. Blythe stated it is difficult to see where the RV is sitting and how far out it will be.

Mr. Griswold said it will be to the left of the driveway 8 to 10 feet back.

Mr. Blythe asked the size of the RV.

Mr. Griswold stated about 32 feet and it will stick out from the house.

Mr. Carl said there is no way you could park it behind the house. We also received this letter from the neighbor citing 2 separate issues, children's safety and the unsightly RV sticking out in a residential neighborhood. When safety of children is a concern, we have to stop and will take a second look at this request. It's a real attention getter.

Mrs. Paddick said it appears the neighbor is concerned about the children riding their bikes and not being seen.

Mrs. Griswold mentioned that neighbor has had problems with us ever since I moved in with my kids.

Mr. Griswold said the neighbor to the right of our property, that wrote the letter, had no concerns. She would rather have it paved than a retaining wall being put up. It is feasible to park the RV behind the house but we would have to grade approximately 6 to 8 feet. I couldn't incur that expense to dig out and regrade the back of my house. The property starts grading up by the basketball hoop. The RV once the driveway is paved will not impede the neighbor from backing out of their driveway. You have full view from Kings Row of our garage. You should be able to see kids playing. The RV will not block the visibility for anybody unless you are blind.

Mr. Carl stated the pictures do not match with the site plan submitted it appears to be off.

Mr. Blythe asked if another site plan could be submitted.

Mrs. Griswold stated the deed abstract was sent to a company My Site Plan to configure a site map for us. However, the deed indicated the proposed house not the actual house that is there today. I did not realize it wasn't 100 percent accurate until later. We ran out of time to submit a revised drawing for this meeting, so we submitted what we had.

Mr. Carl asked how will you get around the awning, or is that where you will stop. So the RV will be hanging out 32 feet.

Mr. Boland can understand the neighbors concern looking at an oversized truck, trailer or RV every day when you come home.

Mr. Griswold said the neighbor across the street has a boat that we have to look at every day. We had numerous estimates from contractors that measured from the road to the side of the house. So the site map is not off by a lot. The play house and basketball hoop will be removed and if necessary the awning can be removed.

Mr. Donnelly asked how wide is the RV, and what about the other side of the house can it be parked there.

Mr. Griswold stated the RV fits into a regular parking space so it is not over-sized. The back of the RV will be even with the front corner of the roof awning. The other side of my property is not as steep but is already fenced in. I would like to try to back the RV to where the basketball hoop is now.

Mrs. Paddick asked is there any way to back it up further so the RV will not be hanging out. Is it possible to pave to the back of the house.

Mr. Griswold I would like to pave to the back of the house. After a year put a top coat over the entire paved area so it all looks new.

There being no further discussion a motion was made by Mr. Blythe, seconded by Mr. Carl for a favorable advisory to the Zoning Board of Appeals to expand the driveway going back to the exposed side concrete step up and too allow the variance for the side yard setback and contingent upon the RV being parked off site from November 1<sup>st</sup> to April 30<sup>th</sup> each year and the entire proposed area being black topped.

Roll Call:       Ayes – 5           Nays – 0           Absent – 1 (Warren)

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**COMPREHENSIVE PLAN UPDATE DISCUSSION**

Mr. DiMascio apologized for not being able to wrap things up. It is a hard task to compile. The only update for tonight's meeting is the rezoning of 12 A is complicated and we have agreed to leave this dialog the same. We received feedback from Broome County who suggested we break it apart into 3 sections, wind, solar and gas exploration and extraction. The gas portion we received from Frank Evangelisti at Broome County and the solar and wind development verbiage from Mr. Geisenhof. All this information will be emailed to you for your feedback. You can email or mail any suggestions or we can discuss it at the end of the special meeting on Monday, August 17<sup>th</sup>.

I do want to take a minute to commend all the Board Members on their wonderful job on the Parcel B busing project. There was quite the turnout at the Zoning Board meeting against the Bishop Road entrance. The Zoning Boards concern with the bus being there at all. It appears the site plan was going down in flames, so the Chairman and Mr. Kirschner decided to table the application and have a special meeting prior to the public hearing on August 25<sup>th</sup>.

Mrs. Paddick said she supports the Bishop Road access, just for the safety stand point alone. Not having to turn around and the bus lights not affecting any residents. I don't understand why the Zoning Board didn't act on this aspect.

There being no further business before the Board, they unanimously agreed to adjourn the meeting at 8:05 p.m.

Respectfully submitted,

Diane Aurelio  
Ordinance Secretary