

PLANNING BOARD  
SEPTEMBER MEETING  
MONDAY, SEPTEMBER 8, 2014  
7:00 P.M. - TOWN HALL - 1529 NYS RTE 12  
BINGHAMTON - NEW YORK - 13901

PRESENT: Judy Snyder, Acting Chair  
Messer: Donnelly, and Warren

ALSO, PRESENT: Thomas Geisenhof - Assessor  
Alex Urda P.E. - Town Engineer  
Gene Hulbert, Jr. - Town Board Member

ABSENT: Cynthia Paddick - Chairwoman  
Douglas Bernard, Planning Board Member  
Michael Boland – Planning Board Alternate

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The meeting convened at 7:00 p.m., at which time Mrs. Snyder 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 Comprehensive Plan meeting of August 11, 2014.

A motion was made by Mr. Donnelly, seconded by Mr. Warren to approve the August 11, 2014 Planning Board/Comprehensive Plan minutes.

Roll Call: Ayes - 3 Nays - 0 Absent – 3 (Paddick, Bernard & Boland)

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NEW BUSINESS

- **CHENANGO COMMONS LLC**- Terry & Barbara Kane - 1 Kattelville Rd. - TM#112.06-6-24- Application for site plan review for proposed pavilion.

Mr. Urda reviewed the applicant's request to construct a 60' x 100' pavilion with enclosed food preparation and bathroom areas. This will be for seasonal use during the warm weather months for family gatherings, weddings, anniversaries and such. There will be shared parking with the existing businesses. Currently there are 109 spaces with additional paved area for 74 spaces creating a total of 183 parking spaces. They propose 89 seasonal grassed parking spaces with a loss of 3 existing for access. Total parking provided will be 269. The proposed sharing 26% of the stalls between uses, as is allowed per code, to achieve code compliance for the overall total of 297. The use is acceptable within the zoning district. The building meets/exceeds the required setbacks. Parking for the overall facility appears adequate for the use with overflow parking on the grassed fairway. There is ADA parking noted on the

plans. The parcel is located with the Aquifer Protection Zone 1 Wellhead Protection Zone and currently complies with the Town Code 73-55 Attachment XII and will continue to do so. The proposed project is within the existing FEMA Special Hazard Zone AE (100 year flood). The proposed floor is below flood elevation per §39-14B the structure should be elevated to or above the base flood elevation which is 860' recommend raising it 2'. We encourage they provide 1 to 2' of freeboard for the enclosed spaces. They should be asked what impact this new construction will have on the floodplain. It is less than an acre and will not require a Storm Water Pollution Prevention Plan (SWPPP). Nevertheless erosion control measures, stabilized construction entrance and a silt fence should be installed prior to construction and maintained and a building permit required. They should also address their intent on landscaping and signage for the facility. This is a Type II action under SEQR but the Short EAF was provided however Part 1-12b the site is within an archaeological sensitive area. The applicant should provide prior to disturbance of the area for clarification. Part 1-15 states the site contains species of animal by the State of Federal government as threatened or endangered. This need clarification if either exist in this fairway area. The professionally signed and sealed version of the site plan will be submitted to the Town of Chenango Code Office for the record. Final approval is recommended contingent upon the satisfactory response to the questions mentioned.

Mr. Geisenhof from the Ordinance Office recommends that the Planning Board grant site plan approval for the proposed pavilion with a building permit being required.

Mr. Bailey Keystone Engineer for the proposed project gave a brief presentation on the project constructing a 60' x 100' pavilion with enclosed food preparation and bathrooms. This would be a seasonal use structure. Typically the events will take place during the afternoon/evenings on Friday, Saturday and Sundays no later than midnight. The pavilion capacity will be able to accommodate 250 people for family gathers, weddings, anniversaries, etc. during the warm weather months. There will be shared parking. This is a seasonal use with no heat, electrical for the bathroom lighting and food staging area and the doorways and will be flood proof. There will be no impact on the flood zone. We are aware of the flood elevation and will bring in fill to elevate the building so there will be nothing on site to mitigate. Over several years the floods have washed away approximately 5 feet of their property and are unable to mitigate that to prevent further deterioration. A flood wall was built the 2006 after the flood. The 2011 topped over the existing wall and another foot was added. They propose 9600 cubic feet of fill being brought in to build up the elevation. This will raise the structure above previous flood elevation of 862 for the sidewalks and utilities (water, sewer & electric) associated parking and other necessary appurtenances. The doorways and bathrooms will not be flood proof this will allow the water to drain out. We will not be digging below 1' and have 6' borings with 3' removed to get rid of the unstable sand and silt and then filled back in. It will not impact any endangered species, it shows up on the EAF mapper report which is automatically filled in for you. We will provide the prior disturbance of the area for the archeological sensitive area. The over flow parking on the grass is temporary for an

event. As for landscaping and signage the owner has not discussed this yet. Any new information will be submitted to the town.

Mr. Donnelly questioned the parking on the fairway is this for the evening only.

Mr. Bailey indicated the golf course will be shut down during special events to enable fairway parking if necessary.

Mr. Hulbert, Town Board member asked how the new construction will have zero impact on the flood plain that you will have to demonstrate. Where are the bathrooms being connected and has the Town's Water Department been made aware of this?

Mr. Bailey said they will install a new gravity line to the pump station. We have not contacted the Town's Water Department yet. Le Chase will be the general contractor for the project with Keystone being in charge to oversee the design and manage the construction.

There being no further questions or discussion a motion was made by Mr. Warren, seconded by Mr. Donnelly for site plan approval with a building sign permit being required, along with additional requirements being met from the Town Engineers letter.

Roll Call:           Ayes - 3           Nays - 0           Absent – 3 (Paddick, Bernard & Boland)

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- **UPFRONT DEVELOPMENET, LLC.** - 41 Kattelville Rd. – TM#095.18-2-35-Application for site plan review for commercial re-occupancy for expansion of existing heating and air conditioning business.

Mr. Urda stated the applicant purchased this property for expansion to satisfy the growing demands for their heating and air conditioning business. The building was previously utilized as a computer printer, supply and printing service company. Nothing is planned to change the existing building, only re-stripping of the parking area. This is an acceptable use for the zoning district. The parking is adequate. It should be noted it is located within an Aquifer Protection Zone 1- Wellhead Protection Zone and shall continue to comply with the Town Code §73-55 Attachment XII. This project is subject to Broome County 239 review and is a Type II action under SEQR. A Short EAF was provided; however, Part 1 question #20 was left blank and should be answered by the applicant. Final approval is recommended, contingent upon clarification of the noted question.

Mr. Geisenhof from the Ordinance Office recommended that the Planning Board grant site plan update approval for the re-occupancy of 41 Kattelville Rd. for the expansion of the Air Temp Heating and Air Conditioning Business, with a fire inspection and sign permit being required.

Sarah Campbell, attorney from Hinman, Howard & Kattell, LLP representing the applicant stated the

Town Engineer reviewed everything she was going to discuss. The only changes she is prepared to address is the Town Engineers question regarding the Short EAF form Part 1 question#20 which was left unanswered. I have an update from the EAF Mapper Summary Report print out. The question was left blank because I'm still learning the new EAF format. When you plug in the tax map number the questions regarding if it is a critical environmental area is designated for you as well as the archeological sites, wetlands and endangered species. The answer to question# 20 for threatened or endangered animals and an archeological site should be yes. It is very similar to the Chenango Commons pavilion EAF situation. However, we will not be disturbing any of the ground or building for everything will remain the same for this re-occupancy.

Copies of the updated EAF Mapper report was handed out to the Board members and will be attached to the Short EAF file copy for the record.

Mrs. Snyder questioned the equipment behind the building asking if this will be removed since there is to be no outside storage. How many deliveries do you anticipate and time frame for these deliveries. Keep in mind you border a residential neighborhood area we need to know what the noise level will be during these deliveries.

Mr. Lavre, Engineer for the project indicated they had an auction for the equipment left inside the building. The remains outside is from the dismantled printer which will be removed from the premises.

There will be 2 tractor trailer deliveries daily during the daytime hours. The only noise would be from the pallet jacks during loading.

There being no further questions or discussion a motion was made by Mr. Donnelly, seconded by Mr. Warren to approve this site plan review re-occupancy with a sign permit and fire inspection being required.

Roll Call:           Ayes - 3           Nays - 0           Absent – 3 (Paddick, Bernard & Boland)

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**ADVISORIES/REFERRALS**

- **AUBREY OWENS** - 1149 River Rd. - TM#113.05-1-7 - Application for a use variance to allow chickens in a residential zone.

Mr. Urda stated the applicant's request to have 12 chickens. However, this parcel has double zoning classification of residential and agricultural. Due to the 20 % slope it creates difficulty accessing the agricultural portion of the property. Therefore the 8' x 8' chicken coop with a 5' x 8' run will be located on the residential section. The neighboring property adjacent to the coop will have a separation of approximately 55' and has indicated approval of the project. Raising chickens in an urban setting has

grown in popularity. However, the Tow Code does not allow animal harboring, which includes chickens §32-13 (A) therefore this may need a special permit. This project is subject to Broome County 239 review and is a Type II action under SEQR. Consideration from Broome County regarding noise and order shall be maintained per Town Code should be considered. It is also suggested having written documentation from the adjacent neighbor to the northeast approval for the record and limiting the number of chickens to only 12 chickens. It is recommended they forward a favorable advisory to the Zoning Board of Appeals.

Mr. Geisenhof stated given the rural nature of the area, The Ordinance Office recommends that the Planning Board forward a favorable advisory to the ZBA to grant a use variance to allow chickens in a residential zone, with the stipulation that the number of chickens be limited to 12. To clarify I spoke with Don Walls, Town Attorney if requiring both a use permit and special permit for chickens was necessary. The use variance is more restrictive and harder to obtain. Requiring both would be redundant, so only a use variance is needed. Upon further discussion it occurred to us a use variance transfers on the sale of the property and perpetuates allowing chickens on these properties into the future, which maybe an unintended consequence. So we decided just this once more require the use variance to allow chickens in a residential zone, without a special permit. Any future applications to be correct will require a special permit to harbor animals, not a use variance.

Applicant was not present for the meeting.

Mrs. Snyder suggested having a renewal in 1 year and if there are any complaints to come in earlier so it can be addressed.

Mr. Hulbert asked if the complaint process for sanitation and noise violations in the use variance verbiage, and how would you made aware if there were any complaints.

Mrs. Snyder indicated that would be up to the Ordinance Office to notify the Board of any complaints. So we can address the issue instead of waiting for the 1 year renewal if so stipulated. That is why we place stipulations on advisories, because new neighbors may not approve of this situation.

Mr. Warren asked how is the waste being disposed of?

Mr. Geisenhof stated when he inspected he did not find anything. So they are maintaining the site.

Mr. Urda suggested as part of their motion to include daily waste maintenance.

There being no further comments or discussion a motion was made by Mr. Donnelly, seconded by Mr. Warren for a favorable advisory being forwarded to the Zoning Board of Appeals with the stipulation the number of chickens not to exceed 12, proper waste removal being maintained and a 1 year renewal being required with the Zoning Board of Appeals.

Roll Call:       Ayes - 3       Nays - 0       Absent – 3 (Paddick, Bernard & Boland)

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- **MICHAEL SKRZYPEK** – 349 W. Chenango Rd. – TM#094.01-1-2- Application for an area variance to construct an attached garage with less than required front yard setback from 50’ to 20’

Mr. Urda read his letter to the Board regarding the applicant’s request to construct a 32’ x 28’ attached garage with less than required front yard setback in an agricultural zone. The applicant has supplied a list of neighbor’s signatures in favor of this variance. The building will be approximately 48’ from the road. Granting this variance will not be injurious to the neighborhood or detrimental to the public welfare. There are also 2 similar conditions existing within 1,000’ of this location. This is subject to Broome County 239 review and is a Type II action under SEQR. A favorable advisory is recommended.

Mr. Geisenhof requested the Planning Board forward a favorable advisory to the ZBA to grant an area variance to construct an attached garage with less than required front yard setback from 50’ to 20’.

Applicant was not present for the meeting.

There being no further comments a motion was made by Mr. Donnelly, seconded by Mr. Warren to forward a favorable advisory to the Zoning Board of Appeals with a building permit being required for this area variance.

Roll Call:       Ayes - 3       Nays - 0       Absent – 3 (Paddick, Bernard & Boland)

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- **CHARLES M. MILLER** - 1 Alice St. – TM#112.12-2-1- Application for a double area variance to rebuild existing detached garage with less than required side yard setbacks from 5’ to 2’-4” and 2’ -5”.

Mr. Urda reviewed the applicant request to replace the existing detached garage on the same location with less than required setbacks. This is a corner lot in the residential zone. There are 2 letters from adjoining property owners that have no objections to the granting of this double area variance. The building setbacks will match the existing detached garage which has been there for years. Replacement makes it necessary to comply with the current zoning for setbacks. This is a minimal request to achieve this use. Granting this variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or detrimental to the public welfare. This is subject to Broome County 239 review and is a Type II action under SEQR. Since this is a replacement of an existing structure with no prior complaints a favorable advisory is recommended with a building permit being required.

Mr. Geisenhof suggested the Planning Board forward a favorable advisory to the ZBA to rebuild the

existing detached garage with less than required side yard setbacks from 5' to 2'-4" and from 5' to 2' -5".

The applicant was not present to answer questions from the Board.

Mr. Hulbert stated he applauds the attempt locating the pins and attaching a string to indicate the boundary. However, to ensure proper placement of building a survey should be required. I have seen many situations where buildings were placed on the wrong property. This particular case really should have a survey. Plus you need to consider the overhangs on building already creating 2' over the property line along with possible drainage issues.

Mr. Geisenhof stated the applicant purchased the property recently. Tried to get a survey but it was too costly. So they located the pins and tried to demonstrate where the property boundaries are.

Mr. Hulbert said it was a valid effort, but this type of survey could have been accomplished for less than \$700.00. Per Municipal Board Law it is there burden to prove where their property lines are.

Mary Minacci of 23 Woodland Drive asked if the town could be brought into a lawsuit if the board approved it and it was placed on the wrong property.

Mrs. Snyder said anything is possible.

Mr. Hulbert suggested the Board look up the difference between Municipal Law and New York State Education Law for licensed survey requirements.

They also discuss adverse possession; if someone maintains a property over several years can they take possession.

There being no further comments a motion was made by Mr. Donnelly, seconded by Mr. Warren to forward a favorable advisory to the Zoning Board of Appeals with a building permit being required and the submission of a survey with accurate setback dimensions noted for this double area variance.

Roll Call:       Ayes - 3       Nays - 0       Absent – 3 (Paddick, Bernard & Boland)

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There being no further business before the Board a motion was made by Mr. Donnelly and unanimously carried to adjourn the meeting at 7:50 p.m.

Respectfully submitted,

Diane Aurelio  
Ordinance Secretary

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