

ST. LAWRENCE COUNTY PLANNING BOARD

APPROVED MEETING MINUTES

November 18, 2010

County Courthouse, Room 226, 48 Court Street, Canton, NY 13617

I. Initial Business

- A. Roll Call and Determination of a Quorum.** Welch called the meeting to order at 7:01 PM and announced two new members were serving on the County Planning Board. Welch asked all members and to introduce themselves. **Members present:** K. Bellow, K. Bisonette, S. Burns, W. Davis, M. Gazin, T. Jenison, R. Matthews, L. Mattice, J. Miller, D. Mullaney, B. Murray, W. Palmer, D. Sunderland, and D. Welch. **Members Absent:** W. Dashnaw. **Staff present:** M. Larson and J. Pfothenhauer. **Other Members of the Public:** Brian and Becky Binan, applicants from Massena; Tom Cutter and Tim Danehy.
- B. Action on the Agenda.** Welch requested the order of full review projects be switched for the use variance request in Massena to be presented first, followed by the proposed code amendment in the Village of Canton. The modified meeting agenda was unanimously approved (Matthews/Mattice)
- C. Action on Meeting Minutes.** The October 14, 2010 meeting minutes were unanimously approved (Burns/Matthews). Pfothenhauer thanked Mullaney for preparing the October meeting minutes.

II. Public Forum

Welch explained the County Planning Board's bylaws call for a public comment period at the beginning of each meeting, and asked if anyone in the audience would like to say anything that did not pertain to a specific project. There was no response.

III. Projects Reviews

A. **Projects returned for local action under MOU.**

Welch described the process for returning projects to communities for local action when they do not present any countywide or inter-municipal significance.

B. **Full Review Projects.**

- i. Massena (V): Use Variance for a Gun Shop in the Residential B Zoning District. Following Larson's presentation, Welch asked what triggered the project for a referral. Larson explained the property was within 500 of the village line. Welch asked if there were any comments or questions from the board. Welch then asked if anyone from the public wished to speak. The applicant, Brian Binan, said he didn't receive an email from Larson

with information about the four legal tests, and explained he is on disability, and is looking to supplement his income. Binan said a local market exists for his business, as he's had to purchase black powder from a gun dealer in Lisbon. Binan said the existing tattoo parlor as a home occupation doesn't have a business sign, and it generates little traffic. Binan also said in order to comply with state and federal requirements, security cameras will be installed, but no exterior lighting will be added to the property.

Binan said he's completed all the paperwork to obtain state and federal licenses, and was told he can't proceed with the business unless the Village Zoning Board of Appeals approves the use variance. Binan said he's known his neighbors for 12 years, and they don't oppose the gun shop. Becky Binan added the business would be operated by appointment; customers would place an order; and they would pay for a weapon upon pick up. Binan said he intends to sell turkey decoys, black powder, and other items that can't be purchased at Walmart. Welch confirmed for the Binans that the Village Zoning Board of Appeals has the final say on the project. Palmer asked Binan if he was told how hard it is to obtain a use variance. Binan said he didn't know how difficult it was until he spoke with Larson on the phone. Binan added the Village ZBA was scheduled to meet on November 16th, but their decision was tabled until they received a response from the County Planning Board. The Board unanimously disapproved Mr. Binan's request for a use variance to operate a gun shop in the Residential B Zoning District (Matthews/Mattice).

- ii. Canton (V): Zoning Code Amendment to allow gas pumps as part of a convenience store in the C-1 zoning district. Pfothenhauer described the proposed amendments to add a use to the C-1 zone, and reviewed staff's comments and recommendations. Pfothenhauer noted the proposed order of the amendments is confusing, and said it could be arranged to be more simplified in the code.

Miller asked if the proposed amendments would affect the vacant lot at the intersection of Main and Miner Streets. Pfothenhauer replied yes, as well as other vacant parcels in the C-1 zoning district. Welch said that for clarification, the County Planning Board is reviewing the proposed amendments tonight, and site plans for potential projects in this zone would be reviewed at a later date. Matthews asked what protections would be in place in case of a fuel spill. Pfothenhauer said the proposed development standards reference complying with DEC regulations. Zimmerman added all gas stations are required to report minor spills on site to the DEC, and spill containment crews are brought on site when that occurs. Zimmerman said the DEC also developed rigorous bulk fuel storage requirements to minimize accidental spills.

Mattice said the timing for referring the project to the County Planning Board is rather interesting, and said staff had little time to review the project. Burns said the Village should consider how this amendment would impact traffic on Main Street. Burns said traffic on Main Street was heavy when the Mobile Station operated on the lot, and traffic has increased since then. Pfothenhauer said these amendments don't guarantee a convenience store with gas pumps will be located into the C-1 zone, and the special use permitting process allows the local planning board to deny such a project. Pfothenhauer added the Board will review the application if one is submitted. Palmer said the proposed amendments allow for a gas station when the current law prohibits it.

Murray said the vacant lot on Main Street is located in a small congested area, and asked about other available land in the C-1 zone. Zimmerman said vacant lots in the C-1 zone are on Highway 310, south of the County Human Services building. Murray said land out on Highway 310 could accommodate the proposed setbacks, but small lots downtown could not. Zimmerman said the developer could acquire and demolish adjacent structures to construct a convenience store. Zimmerman added nothing in the law prohibits the retention of historic structures in Canton's Historic District. A comment was made that the Village may be looking to do adopt these setbacks to approve a project before the DOT realigns Main Street in 2012, and imposes more rigorous setbacks from intersections. Jenison recommended the Village consult with the DOT on the proposed setbacks.

Gazin recommended the amendments use the term "fuel pumps" rather than "gas pumps" as the law references more than one type of fuel dispensed on site. A suggestion was also made that fuel can also be dispensed in "appropriate containers" at a fuel pump. Palmer asked if there were any state regulations regarding the size of fuel pump canopies, and asked if a setback applies to a canopy, could the width of a canopy be reduced to meet a setback? Zimmerman responded the developer would likely not get insured for adequate fire suppression. Pfothauer confirmed for Jenison that the maximum number of gas pumps for a convenience store was three. Jenison asked what type of variance would be required if a developer wanted to exceed the maximum. Pfothauer said a use variance would be required as the use becomes a gas station, and is no longer a convenience store with gas pumps. Palmer asked if other stations in the Village would be grandfathered. Pfothauer and Zimmerman replied no, because they are located in the C-2 zone; no other gas station exists in C-1 zone. Jenison said he opposes having gas pumps located in Canton's Historic District.

Welch asked for comments from other Board members. Zimmerman said signage on the gas pump canopy could be an issue; lettering on the canopies and building are not regulated in the proposed amendments. Zimmerman recommended the Village examine the Village of Potsdam's sign requirements for uses in their historic district. Welch asked if anyone in the audience would like to speak. Village Planning Board Chair Tim Danehey thanked Pfothauer for helping Village Attorney Jerry Ducharm draft the proposed amendments, and thanked the Board for reviewing the project on short notice. Danehey clarified the setback is intended to apply to any structure on the parcel, regardless of whether it's a canopy or pump. A recommendation was made to change the language in the amendment for the setback to apply to any structure, excluding stand alone kerosene pumps.

Larson recommended setbacks be measured from the edge of a right of way, rather than a street curb because the width of Main Street will likely change after the DOT completes its project. Village Planning Board member Tom Cutter asked where road rights of way extend to. Is it the edge of a curb? Bisonette replied some old parcels have legal descriptions that delineate ownership to the center of a road. Zimmerman said any development project will include a survey that depicts all features, including rights of way, on a lot. Zimmerman said measuring from the right of way is because it indicates the furthest extent of a road's edge. Because the right of way will be closer to a proposed structure than the existing street curb, Zimmerman said the dimension for the proposed setback will need to change. Cutter said the Village should consider subjecting a

convenience store to a zero lot line setback like the existing buildings on the north side of Main Street.

Davis arrived at 8:16 pm.

Cutter also said the amendments should require a traffic impact study that takes pedestrians and cyclists into consideration, as the area is heavily used by pedestrians and cyclists. Jenison asked if fuel tanks will be removed once operations cease, then asked what signifies a discontinuation of use. Danehy responded the operation ceases when gas is no longer dispensed on the property. Jenison asked if the developer will have a choice of above or below ground tanks. Davis replied it will depend on the volume of the tanks.

Zimmerman said the boundary of Canton's historic district extends the length of Main Street from Court Street to Riverside Drive on both sides of the street. Palmer asked if the Historic District is an overlay zone. Zimmerman replied yes, and additional regulations apply to land uses located in the overlay zone.

Pfotenhauer reviewed the recommended conditions of approval: a 40' setback that applies to both gas pumps and canopies, excluding kerosene pumps, as measured from a right of way. A comment was made the setback dimension will likely change when measured from the right of way, rather than a street curb. Bisonette recommended inserting "public" right of way. *Matthews made a motion to approve the code amendments with conditions, seconded by Davis and Mullaney.*

Davis said the amendments to the C-1 zoning district seem contrary to the intent of the Historic District Overlay Zone, and will side with residents who want to preserve Canton's historic downtown character. Palmer asked what will happen if the motion fails. Pfotenhauer replied that the project would be returned for local action. Palmer requested a roll call vote.

Yes: Bellor, Bisonette, Burns, Matthews, Miller, Mullaney, Murray, Palmer, Sunderland
No: Davis, Gazin, Jenison, Mattice, Welch

A majority of the Board voted to approve amendments to the C-1 zone in the Village of Canton with conditions.

IV. Reports

- A. **Executive Committee.** Welch reported the Executive Committee met on October 28th to discuss tonight's meeting agenda, reviewed projects that were sent back for local action, and discussed the full review projects.
- B. **Board of Legislators.** Burns announced the County Board of Legislator's Finance Committee approved the 2011 budget, and a public hearing will be held on Monday, November 22nd. The true value tax rate will change by 2.42% to \$8.33 per thousand, up from \$8.14 the previous year. Burns said the County Board will vote on the budget after the public hearing to formalize its approval. Burns announced he had other good news; he was re-elected as County

Legislator. Eight new Legislators will take office in January, and the 2012 budget will be more difficult than 2011's. Burns thanked Zimmerman for all of his work on the budget. Burns said the County may also have to wrestle with a property tax cap if it's passed by the state. Burns was asked if he expected to continue serving on the County Planning Board. Burns said he couldn't say. Gazin said increases in property assessments may not follow inflation, which levels out the effects of revenue that's raised. A comment was made that according to realtors, property values in the county are beginning to rise. Zimmerman said current tax rolls don't yet reflect the loss of assessed revenue from the GM plant closure in Massena.

- C. **Staff Report.** Zimmerman said during the budget review process, the County Board discussed his continued presence with the IT department, and complimented Pfothauer's leadership in the Planning Office during his absence. Presently, Zimmerman said there is no end in sight for his role as the interim IT Director.

Zimmerman said following a request by the Planning Office, the County Attorney determined ex-officio members have all the rights and privileges as other board members to count towards a quorum, and to vote. The Board of Legislators appoints ex-officios to serve on boards, and they are empowered by Board of Legislators to make decisions.

Zimmerman said a User's Guide to the Adirondacks is now available online on the County's website, and simplifies the myriad of state land acquisitions and describes allowable uses in the southern part of the county.

Burns asked when 2010 Census population data would be available. Zimmerman said population numbers will be published in March. One of the first items for the County Board to address shortly thereafter is redistricting.

Davis said state funds are available through the New York Office of Parks, Recreation and Historic Preservation for recreation improvements, but eligible projects must be on a SCORP list.

Matthews asked for an update to the County's Policy Guide. Welch said he will work on the introduction. Zimmerman said half of the County Board of Legislators will be new to their role, and an orientation will be held to review the roles and responsibilities of the various county boards and committees.

V. Other Items

- A. **Correspondence.** Welch reviewed items in the general correspondence file.

Next Meeting Dates. The Executive Committee will meet on Tuesday, November 23rd at 4:00 pm in the County Planning Office in Room 255 of the County Courthouse. The Full Board will meet on Thursday, December 9th at 7:00 pm in Room 226 of the County Courthouse, located at 48 Court Street in Canton.

The Planning Board's annual retreat will be held on Saturday, January 8th from 9:00 am to noon at the Canton Masonic Lodge, located at 2564 State Highway 68.

VI. Adjourn

The meeting adjourned at 9:06 pm.

Respectfully Submitted,

Dawn Mullaney
Secretary

Minutes prepared by M. Larson

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