

ST. LAWRENCE COUNTY PLANNING BOARD

APPROVED MEETING MINUTES

July 8, 2010

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

I. Initial Business

- A. Roll Call and Determination of a Quorum.** Welch called the meeting to order at 7:01 PM. **Members present:** K. Bellor, S. Burns, W. Davis (8:19 p.m.), D. Duff, M. Gazin, R. Matthews, J. Miller, D. Mullaney, W. Palmer and D. Welch. **Members Absent:** K. Bisonette, W. Dashnaw, J. Furnia, L. Mattice and T. Jenison. **Staff present:** M. Larson and J. Pfothenhauer.
- B. Action on the Agenda.** Pfothenhauer noted several changes to the agenda. He stated that the use variance for a repair shop in the Town of Massena was, in fact, non-referable. As well, the mobile home referred as a use variance should have been referred as a site plan. An additional review, a use variance for a salon in the Village of Massena, was added to the agenda. The revised meeting agenda was unanimously approved (Matthews/Mullaney).
- C. Action on Meeting Minutes.** Gazin asked about the discussion in the minutes about quorum issues when the roll called noted 9 members being present. Burns directed Board members to the bottom of page 3 where the arrival time of the 9th member was noted. The June 10, 2010 meeting minutes were unanimously approved (Matthews/Mullaney).

II. Public Comment No public comments were made.

III. Projects Reviews

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

Staff presented a review of a project in the Village of Massena for the development of a tax office and deli shop. Staff sent the project back for local action but the Board recommended that the approval be conditioned on the combining of three lots into one (Matthews/Miller). Staff will retract the RFLA and forward the conditioned approval to the Village.

B. **Full Review Projects.**

Massena (T): Howie, Bruce, Site Plan Review for Mobile Home Placement in the R-A Zone. Pfothenhauer described the property location for an in-kind replacement of an existing mobile home. The replacement mobile home will be 10 feet longer than the existing one. Staff recommended returning the project for local action. Mullaney noted that this will be an upgrade for the community. Duff asked why the Board is reviewing the project. Pfothenhauer stated that mobile home replacements are subject to site plan review and it is the policy of the County Planning Board that Board members need to be consulted on site plans.

Massena (V): Santimaw, Mary, Use Variance Request to locate a Hair Salon in the Residential B Zone. It was noted that this project is the third use variance for a commercial use in a garage in three months. Pfothauer reviewed the permitted uses in the zone, gave an overview of the area and directed Board members to aerial imagery of the site. It was noted that a previous commercial use, a ceramic shop existed at the site but that the use was discontinued approximately 6 years ago. No records can be found that show that a use variance was granted for the prior commercial use.

Staff gave a summary of the four legal tests and commented on how the applicant addressed each of them. (1). Few applicants if any submit financial evidence demonstrating they can make a financial going of permitted uses in the zone. Such was the case for this application. (2). Staff were unable to identify any unique differences between this parcel and surrounding properties. (3). With regard to the alteration of the existing character of surrounding neighborhood, traffic patterns could be altered depending on the success of the business. (4). Since the applicant is aware of the regulations and currently owns the parcel the alleged hardship has been self-created.

Staff identified the impact on the traffic patterns on Maple Street as a major concern due to the proposed business's proximity to hospital and the existing curve on Maple Street at the Hospital Drive intersection. Parking on site was also seen as an issue since there will be more employees than parking spaces. There was no information provided as to whether a lease agreement with an adjacent church parking lot has been worked out. Matthews voiced concern about the traffic impacts that could result and how emergency vehicles entering and exiting the hospital could be affected. Duff noted that this increase in home based businesses is a product of the economic hard times but regardless, the four legal tests have not been addressed. Staff were asked if the applicant knows about the legal tests for a use variance. Staff reported that the Village Code Enforcement Officer is very experienced and would have provided such information to the applicant. Bellor asked if there were any other uses like this in the zone. Staff noted that other businesses are located further east on Maple Street that are near or in the Central Business District zone. Mullaney wondered if the business could be considered a home occupation. Staff responded that home occupations are not permitted in the zoning district either. Staff noted that a use variance for a doctor's office on West Avenue, just to the west of the site was requested several years ago. That use variance request was denied by the County Planning Board. A motion to disapprove the use variance was unanimously approved (Mullaney/Matthews).

After the motion discussion continued on what modifications could be made to zoning codes to accommodate such uses in light of the influx of the home based business use variance requests. Pfothauer noted that more mixed-use zones or form-based zoning might be useful. Such modifications would essentially allow all uses, but have certain site specific related conditions that must be met before approval could be granted. Larson suggested discussing form-based zoning at next months meeting in Massena. Matthews noted that it would be a good training opportunity.

IV. Board discussion on Staff response to use variance requests. In light of the close votes on several use variance project reviews over the last several months, Staff are seeking direction

from the Board on use variance requests. Mullaney asked of the recent projects, if they were not subject to County Planning Board review, would they rise to the level of countywide significance. Staff noted that countywide significance is project dependent. In the past, the County Planning Board's policy was that failure to meet the legal tests and the impacts of such a variance on community character was considered a countywide impact. In recent years greater discretion has been given to Staff members to determine Countywide significance of use variances. Duff noted the importance of being consistent because Code Enforcement Officers change over time. Concern about use variance test information getting to the applicants and the understanding that this information dissemination is dependent on the local CEO and the Zoning Board of Appeals was noted. Gazin asked if standard written information could be provided to applicants. Staff noted that a Department of State document for applicants to Zoning Boards of Appeals was distributed to CEOs in the past. Palmer noted that the legal tests are designed to make the applicant fail.

Bellor commented that if all the legal tests could be met, should the Board approve a use variance since it would be allowing something that is not permitted. It was noted that use variances serve as a relief valve and there are times when they should be granted. Palmer noted that the Nice and Easy tentatively proposed for the former Mobil site in the Village of Canton will likely be presented as a use variance to the Village Zoning Board of Appeals. Due to its proximity to US Highway 11 it will be reviewed by the County Planning Board as well. Bellor asked what specifically Staff were looking for guidance on. Staff stated that they wanted to know if the Board would like to see all use variances, or if they can continue to decide which use variances have countywide significance.

Palmer commented that he feels that when individuals ask for use variances a recommended denial is issued, but use variance requests made by corporations are approved. He noted that individuals may not have the resources to apply for a zoning amendment. Davis stated that during his time on the Board the Staff have provided competent and professional reviews and he would support Staff discretion regarding what use variances are brought to the full Board. Duff suggested that a local Board member be consulted before a use variance can be returned for local action. The current MOU policy was distributed. Modifications will be made as suggested. Duff further suggested that commercial wind farms be added as automatic full reviews. The Board voted unanimously to continue the current practice of giving discretion to Planning Board Staff as to whether use variance requests be brought before the full Board. (Bellor/Matthews).

Welch noted that there have been bare quorums in recent months. He noted that the current by-laws allow for the removal of members if three meetings in a row are missed. Welch will write a letter to members with poor attendance records to have them reevaluate their commitment to the Board. It was noted that one member has missed more than three meetings in row.

V. Reports

- A. **Executive Committee.** Welch said the Executive Committee met to set the agenda and discuss full review projects.
- B. **Board of Legislators.** Burns noted that it is the beginning of the County's budget season and the first official meeting is on Monday July 12th for the 2011 budget. County deficits could

reach from 10-12 million dollars. The County's fund balance is larger than anticipated, however. The RVRDA did receive 8 million dollars from NYPA. The organization is now going through the process of writing bylaws and procedures. The EMC and Canton College will be meeting with the RVRDA Board in the near future. Davis asked if there is a time line to finalize the procedures. Burns mentioned that the Board is meeting every two weeks for the foreseeable future to get up and running. Palmer asked if the County was still flirting with raising sales tax. It may come up again following Monday's meeting. Burns noted that the County will look at all options to balance the budget. Palmer noted that he was happy to see a Canadian body armor firm go into the industrial park in Ogdensburg. Davis noted that there are other defense contractors in the industrial park as well.

- C. Staff Report.** Staff are currently preparing two community planning grants for the Towns of Waddington and Madrid. These are unique funding opportunities as the money can be used for community planning, something that does not have a lot of funding resources. The applications, if successful, will secure enough funds to hire a consultant to develop a plan that details strategies for pursuing funds to implement projects and address needs. Maximum allotment is \$40,000. The County Agricultural and Farmland Protection Board will be sponsoring an agricultural tour on Friday, August 20th. Two stops are planned, one at an organic CSA farm and another at Curran Renewables wood pelleting facility. All Planning Board members are welcome.

VI. Other Items

- A. Correspondence.** The use variance for the Village of Massena bait shop was approved 4 to 1. A letter was read from Canton Chamber of Commerce supporting a use variance for a Nice and Easy at the former Mobil gas station. It was noted that traffic volumes have likely increased since the Mobil station closed. Consulting the DOT traffic counts would be helpful.
- B. Next Meeting Dates.** The Executive Committee will meet on Thursday, July 29th at 4:00 pm in the Planning Office. The Full Board will meet on Thursday, August 12th at 7:00 pm on the second floor of the Massena Municipal Building, located at 60 Main Street.

VII. Adjourn

The meeting adjourned at 8:59 pm.

Respectfully Submitted,

Dawn Mullaney
Secretary