

**CATTARAUGUS COUNTY PLANNING BOARD**  
**December 2, 2003**  
**County Center**  
**Little Valley, NY**

**PLANNING BOARD MEMBERS PRESENT:**

Paul R. Bishop, Chairman  
William Sprague, Vice Chairman  
Ann Padlo, Secretary  
Paul Mager, Assistant Secretary  
Tina Abrams  
Jack Berger  
Kameron Brooks  
Charles Couture  
Robert Keis  
Donald Patterson  
David Rivet

**PLANNING BOARD MEMBERS ABSENT:**

Florence Fuller  
James Rich

**PLANNING STAFF PRESENT:**

Thomas M. Livak, Director  
Terry H. Martin, Chief Planner  
David P. Paoletta, Planner  
Margaret E. Puszcz, Stenographic Secretary

**GUESTS:**

Crystal Abers, Chairwoman Development & Agriculture Committee  
Joan Petzen, Farmland Protection Board & Cornell Coop Ext.  
Kathy Kellogg, Buffalo News

**APPROVAL OF MINUTES**

*Charles Couture moved with a second from Robert Keis to approve the minutes of the October 30, 2003 meeting as submitted. Carried.*

**ZONING REFERRALS**

**Village of Ellicottville - Proposed Moratorium Law**

Terry Martin reported that the Village of Ellicottville is proposing a 9 month moratorium law prohibiting the issuance of any building or demolition permits.

The reason for this moratorium is so that the Village can complete updates of their Comprehensive Plan and Zoning Ordinance. According to the attorneys at New York State Department of State a SEQR is not required for a moratorium. Staff recommendation is approval.

Bill Sprague questioned if the moratorium would effect existing subdivisions?

Terry Martin stated that the moratorium was for new developments only.

*David Rivet moved with a second from Jack Berger to approve the Village of Ellicottville's proposed Moratorium Law prohibiting the issuance of any building or demolition permits for a period of 9 months. Carried.*

### **Village of Ellicottville – Two Area Variances – Corner Parkside Drive/Rt. 219**

David Paoletta reported that the Village of Ellicottville has referred the following two area variances for two parcels located at the corner of Parkside Drive and Route 219:

#### **Area Variance for Front and Rear Yard Setbacks**

The applicant proposes the construction of a new 2,128 sq. ft. (28' x 76') single-family residence on a vacant parcel in a Village Residential District (V-R). The Village of Ellicottville Zoning Ordinance requires a 25 ft. front yard setback in a V-R District. The applicant is proposing a 15 ft. setback. The Zoning Ordinance also requires a 35 ft. rear yard setback in a V-R District. The applicant is proposing a 27 ft. setback. The proposed setbacks and lot sizes are common to other residential uses in the vicinity. All other area requirements of the Village of Ellicottville Zoning Ordinance are being met. The proposed residential land use is consistent with the residential character of the area. The proposed setbacks should adequately protect neighboring properties. The proposal will not limit emergency vehicle access to the property or neighboring properties. This is a local issue with no countywide or inter-municipal concerns. No adverse impacts are anticipated. Staff recommendation is approval.

*Donald Patterson moved with a second from Kameron Brooks to approve the referred Village of Ellicottville front and rear yard area variance for a parcel at the corner of Parkside Drive and Route 219. Carried.*

#### **Area Variance for Front, Rear and Side Yard Setbacks**

The applicant proposes the construction of a new 1,500 sq. ft. (30' x 50') two story residential structure on a vacant parcel in a Village Residential District (V-R). The Village of Ellicottville Zoning Ordinance requires a 25 ft. front yard setback in a V-R District. The applicant is proposing a 15 ft. setback. The Zoning Ordinance also requires a 35 ft. rear yard setback in a V-R District. The applicant is proposing a 25 ft. setback. The Zoning Ordinance also requires a 10 ft. side yard setback with a 30 ft. total side yard. The applicant is proposing an 8.8 ft. south side yard setback with a total side yard of 26.5 ft. The proposed setbacks and lot sizes are common to other residential uses in the vicinity. All other area requirements of the Village of Ellicottville Zoning Ordinance are being met. The proposed residential land use is consistent with the residential character of the area. The proposed setbacks should adequately protect neighboring properties. The proposal will not limit emergency vehicle access to the property or neighboring properties. This is a local issue with no countywide or inter-municipal concerns. No adverse impacts are anticipated. Staff recommendation is approval.

*Ann Padlo moved with a second from David Rivet to approve the referred Village of Ellicottville front, rear and side yard area variance for a parcel at the corner of Parkside Drive and Route 219. Carried.*

### **Town of Ellicottville – Special Use – Alpacas – 6277 Sugartown Road**

David Paoletta reported that the Town of Ellicottville has referred a Special Use Permit request and Site Plan Review for keeping of livestock (Alpacas) in a Medium Density District at 6277 Sugartown Road.

The applicant proposes the establishment of an alpaca farm on a 15-acre site, which was formerly a farm. The parcel contains an existing barn and hayfields. No construction is involved other than fencing. Pursuant to the Town of Ellicottville Zoning Ordinance, the proposed alpaca farm is allowed as a special use (“Keeping of Livestock”) in a Medium Density Residential District (MD). There are a few residences in the area but the predominant land use is agricultural, with a dairy farm nearby. The project should not pose any adverse impacts upon surrounding properties.

The proposed action is situated on property immediately adjacent to one (1) parcel located in NYS Certified Agricultural District and no impact on any farming operation is anticipated. An acceptable Agricultural Data Statement has been received. The Great Valley Creek borders the southern boundary of property and will not be impacted. The project as depicted in the site plan, appears to comply with all required setbacks. The site plan contains adequate information to evaluate the proposal, which should not have an undesirable impact upon the rural character of the area. SEQR has been adequately addressed by the Town Planning Board, which has determined that the proposed action will not result in any significant adverse environmental impacts. This is a local issue with no countywide or inter-municipal concerns. Staff recommendation is approval.

Joan Petzen raised the question about animal density. Considerable discussion ensued on all aspects of alpaca farming.

*Donald Patterson moved with a second from Paul Mager to approve the referred Town of Ellicottville Special Use Permit and Site Plan for the “Keeping of Livestock” (alpacas) in a Medium Density District at 6277 Sugartown Road. Carried. Kameron Brooks abstained.*

### **Town of Ellicottville – Special Use – Co-location on Tower – 7464 Rt. 219**

Terry Martin reported that the Town of Ellicottville has referred a Special Use Permit and Site Plan Review for co-location of 6 panel antennas and 12 coaxial cables on an existing telecommunications tower and construction of a 10’ x 16’ concrete equipment pad at ground level at 7464 Route 219 North.

Terry Martin stated that co-location is preferred by federal agencies and town regulations. By co-locating it preserves scenic beauty by having fewer towers. The Town Engineer states the tower is structurally safe to add more antennas. The Town has addressed SEQR adequately. An Ag Data Statement has been included with no adverse impacts. Staff recommendation is approval.

*Kameron Brooks moved with a second from Charles Couture to approve the Town of Ellicottville Special Use Permit and Site Plan for co-location of 6 panel antennas and 12 coaxial cables on an existing telecommunications tower and construction of a 10’ x 16’ concrete equipment pad at ground level at 7464 Route 219 North. Carried.*

### **INTERGOVERNMENTAL REVIEWS**

Chairman Bishop stated that three Intergovernmental Reviews were received numbered STW #03.041 through STW #03.043. David Paoletta stated that staff recommendation is no comment. The Planning Board concurred.

### **CHAIRMAN’S REPORT**

Chairman Bishop congratulated William Sprague on his election to the County Legislature. Chairman Bishop also stated that he is thankful that Mr. Sprague will be able to continue as a member of the County Planning Board according to NYS General Municipal Law Section 239-c (2) (c).

## **Appointment of Nominating Committee**

Chairman Bishop appointed Jack Berger, Chairman and Florence Fuller to the Nominating Committee.

Annual 30-Day Period for Landowners to Submit a Request for Inclusion of Their Land in a NYS Certified Agricultural District

David Paoletta reported that an amendment to the NYS Agriculture & Markets Law requires the designation of a 30-day annual period that would allow landowners to submit a request for inclusion of their land in a NYS certified Agricultural District prior to the districts eight-year review. He stated that since the amendment was announced, it has been publicized in Cattaraugus County through a number of sources. Chautauqua County has designated January 2nd through January 31st as their annual period.

David Paoletta distributed copies of a draft resolution of the County Legislature that would establish January 2nd through January 31st as Cattaraugus County's 30-day period. He also distributed copies of the NYS Agriculture & Markets Law amendment and current agricultural district review procedures in Cattaraugus County, and discussed the history and development of the states eight-year review provisions. Terry Martin indicated that the draft resolution was prepared by Margaret Puszcz, who combined pertinent aspects from the Chautauqua County resolution and information from the state. It was noted that landowners taking advantage of the 30-day period would join the district closest to their farming operation.

*Paul Mager moved with a second from Ann Padlo to recommend that the Cattaraugus County Legislature establish January 2nd through January 31st as the annual 30-day period for landowners to submit a request for inclusion of their land in a New York State certified Agricultural District. Carried.*

## **Farmland Protection Plan / Cattaraugus Creek Watershed Protection Plan**

Terry Martin stated that he has been making preliminary inquiries at the request of Jess Fitzpatrick, Chairman of the County Legislature, for the purpose of preparing a Cattaraugus Creek Watershed Protection Plan in possible combination with an Agricultural and Farmland Protection Plan. The proposed project could be accomplished utilizing funding from both the USEPA through the Lake Erie Binational Forum and from the NYS Department of Agriculture & Markets. This approach would open up new funding for project implementation under both state and federal grants. The methodology would combine traditional watershed / water quality techniques with newer techniques from smart growth, such as Purchase of Development Rights, and New York State's Quality Communities initiative.

Terry Martin stated Cattaraugus County had submitted a Cattaraugus Creek technical assistance initiative to the Lake Erie Binational Forum for USEPA funding. The proposal ranked third behind watersheds in Ohio and Ontario. Funding for 2003 was in the amount of \$150,000 for the two watersheds in Ohio and Ontario, which will be split between three areas in each watershed: land use planning; chemical reduction; and emerging issues.

He indicated that it is anticipated that Cattaraugus County will apply for a USEPA Grant, with assistance from the Lake Erie Binational Forum for the Cattaraugus Creek Watershed protection initiative, including Zoar Valley habitat protection. It is anticipated that a \$50,000 grant from the NYS Department of Agriculture & Markets for a farmland protection plan can be used as matching funds, as a precedent has already been set downstate for such use of state funding. The WNY Land Conservancy Board of Directors have agreed to support our project.

Terry Martin stated that he and Crystal Abers had attended a NYSDEC sponsored meeting in Gowanda

regarding Zoar Valley habitat protection, where Ms. Abers presented Cattaraugus County's Cattaraugus Creek technical assistance initiative on behalf of Gerard Fitzpatrick. He stated that sprawl and development have been occurring in a small scale, piece-meal manner that is adding up with each new decade. This will continue to occur over an extended period of time. That is why we are proposing that the Farmland Protection Plan be written to include the Cattaraugus Creek Watershed and Zoar Valley Protection Plan.

Donald Patterson stated that farmers are over taxed and over regulated. There are fewer farms and bigger farms.

Joan Petzen stated that the Purchase of Development Rights Program has been very successful in other parts of the country and would be very appropriate for the Cattaraugus Creek Watershed area.

Terry Martin stated that the Ag & Farmland Protection Board will meet on December 9th to discuss both the new annual 30-day period for landowners to submit a request for inclusion of their land in a NYS Certified Agricultural District and the Farmland Protection Plan/Cattaraugus Creek Watershed Protection Plan.

## **MEMBER'S FORUM**

### **Seneca Casino in Salamanca**

Tina Abrams presented conceptual drawings for the new Seneca Casino in Salamanca. A temporary casino is now under construction with it expected to open April 1, 2004. Once the permanent casino is completed in 2005, the temporary facility will become an Event Center for such events as boxing matches and concerts. The Seneca's are currently conducting a Job Fair for the 800 expected jobs for the Casino. They are also conducting a naming contest that is open to tribal members only. The Seneca Nation is currently leasing the old Quality Farm and Fleet Building from Merle Watt for a Casino Training Center and office space.

Chairman Bishop thanked Ms. Abrams for her presentation on the Casino. Ms. Abrams stated that she will keep the Planning Board informed of the progress of the Casino at each month's meetings.

### **START Trail**

Kameron Brooks reported that the construction on the trail is underway. Decking on bridges is scheduled to be completed by December 15th so that snowmobilers can use the trail this winter. The entire trail should be done by July 2004.

Chairman Bishop stated that a letter has been received from Rick LeFeber, Executive Director of the Cattaraugus Local Development Corporation, which owns the START Trail, is requesting the Planning Board's opinion concerning the removal and/or cutting through the berm behind the County Building Parking Lot for access to the START Trail.

Kameron Brooks stated that the thought is that the spoilage from the berm could be used at the Trail Head at the foot of Main Street in downtown Little Valley to make a berm to hide the old DPW building from view.

David Rivet stated that he and his engineer have reviewed the request. They believe that about 20 more parking spaces could be added to the County Building's back parking lot if the berm were removed. However, they do not know what is in the berm and also there are poles that would need to be relocated.

Donald Patterson asked if a pathway through the berm would be more feasible?

David Rivet stated that it probably would be less expensive. He will be taking the matter up with the DPW

Committee tomorrow.

Tom Livak stated that the snowmobile clubs are in favor of the removal of the berm or at least creation of a pathway through it, so that they could drive in and out for DMV business.

Paul Mager asked if the trail will be groomed for snowmobiles?

Kameron Brooks and David Rivet both responded yes by the clubs.

*Charles Couture moved with a second from Robert Keis that the County Planning Board would support removal of the berm or a pathway behind the County Building Parking Lot. Carried.*

### **Gravel Mining**

William Sprague stated that there have been rumbles about Town about increased gravel mining.

Terry Martin stated that Dave Hamling would be interested in supporting this Board in making a request to the Legislative Commission on Rural Resources concerning working Planning Unit Developments (PUD's) into acceptable zoning practices for Reclamation Plans.

Mining companies and municipalities are often adversaries. Mining companies feel that zoning limits their future options, and municipalities feel that mining companies ignore local planning for a better future and disrupt the quality of life. It is not unusual to see hostile meetings and even lawsuits occur between these parties. Cattaraugus County's gravel study proposes that state legislation be amended (1) to convey special benefits when PUD techniques are applied to the reclamation of depleted mining sites, and (2) to require NYSDEC to recognize PUD techniques as a potentially significant addition to reclamation mechanisms under state law (page 61).

Under this proposal, if a mining company embraces local planning by allowing its site to be zoned as a PUD, it would become automatically eligible to apply for state grants and loans for which mining companies are not currently eligible. These funds would be from existing programs and would be used to build local access roads, water and sewer lines, and other infrastructure for reclaimed mining sites. Reclaimed sites could then become a part of a community's future. Depleted mining sites would be recycled into higher quality, more productive end uses. Everyone would benefit. A mutually beneficial situation would be created with this proposal.

This proposal would create a mutual benefit, and encourage cooperation between mining companies and municipalities everywhere in New York State. It would solve a problem at local levels wherever mining occurs by bringing two public issues together: everyone needs gravel, and everyone wants to live in a Quality Community. This proposal would help achieve both goals.

Kameron Brooks stated that LaFarge has hired Dick White to help with a reclamation plan to build a butterfly habitat and natural area, which is another of many solutions that we need to consider.

### **DIRECTOR'S REPORT**

Thomas Livak reported that a Notice of Complete Application and Availability of Draft Supplemental Environmental Impact Statement (DSEIS) for the Southern Tier Solid Waste Management Facility, often referred to as "the Farmersville Landfill" has been received from NYSDEC. Comments on the DSEIS will be accepted by NYSDEC through January 2, 2004. NYSDEC will determine whether public hearings will be held after reviewing the submissions made during the public comment period.

Mr. Livak suggested that the County Planning Board submit a letter on quality communities planning, drawing attention to the County's two guidebooks and how this landfill will throw out of balance our quality communities and the economy and also highlight cumulative impact issues.

Bill Sprague asked what happened to the Park Study?

Terry Martin stated that it is on hold for now, but is still an option on the table.

Considerable discussion on reasons why the landfill is not appropriate for the County.

*Ann Padlo moved with a second from Jack Berger that the County Planning Board send a letter to NYSDEC in response to the DSEIS. Carried.*

### **STW Report – no report**

### **OTHER REPORTS**

#### **Randall Arendt Workshop – November 24, 2003**

Terry Martin reported that the Randall Arendt Workshop held on November 24, 2003 was very successful. 55 municipal and county officials attended. The workshop was about 40% repeat and 60% new material. Prior to the workshop, Randall had spent the day in the Village of Delevan with elected officials. In the morning he walked the streets and then had a meeting with 30-40 business people in the afternoon.

Chairman Bishop stated that Randall spent a lot of time with the store owners giving them ideas on how to restore their storefronts to their original 1800's decor.

Terry Martin thanked Tom Livak for his idea of helping the Village of Delevan.

William Sprague stated that from previous experiences, we need to keep on top and keep the momentum moving forward.

### **CORRESPONDENCE**

The following correspondence has been received:

City of Olean – Notice to public on findings of no significant impact on the environment and intent to request release of funds for the AFPM, Inc. dba Premier Banquets and Catering on Constitution Avenue, Olean, NY.

Kenneth C. Taft, NYSDEC – Notice of complete application and Availability of Draft Supplemental Environmental Impact Statement for Integrated Waste Systems, Inc. Southern Tier Solid Waste Management Facility, Town of Farmersville, Cattaraugus County DEC Permit Application No. 9-0438-00004/00014 – written comments due 1/02/2004.

Eileen R. Weishan, STW – letter to Terry Martin thanking him for speaking at the STW Planning and Zoning Conference November 13, 2003 at Chautauqua.

Michael P. Schifferli, Historic Preservation Program, NYSOPR&HP – concerning SEQR for the proposed Mountainview Subdivision, Ellicottville and SHPO's request for a Phase I Survey to determine the presence or absence of archeological sites or other cultural resources in the project's area of potential effect.

**ADJOURNMENT**

*Jack Berger moved with a second from David Rivet that the meeting be adjourned. Carried.*

**APPROVED AS SUBMITTED JANUARY 29, 2004.**