

### Cattaraugus County Planning Board Meeting Minutes

# December 9, 2004

**Location**

**County Center  
303 Court Street  
Little Valley, NY 14755**

#### PLANNING BOARD MEMBERS PRESENT:

Paul Bishop, Chairman  
William Sprague, Vice Chairman  
Paul Mager, Assistant Secretary  
Tina Abrams  
Jack Berger  
Charles Couture  
Florence Fuller  
David Rivet

#### PLANNING BOARD MEMBERS ABSENT:

Kameron Brooks  
Robert Keis  
Ann Padlo, Secretary  
James Rich

#### PLANNING DIVISION STAFF:

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

#### GUESTS:

Kathy Kellogg, Buffalo News  
Brian Quinn, Salamanca Press

Chairman Bishop called the meeting to order at 7:05 p.m.

## APPROVAL OF MINUTES

William Sprague moved with a second from Paul Mager to approve the October 28, 2004 minutes as submitted. Carried.

## NEW BUSINESS

## **General Municipal Law Section 239 (l) & (m) Referrals**

### **Village of Ellicottville - Zoning Map and Text Amendment**

Terry Martin reported that the Village of Ellicottville has referred revisions to its Zoning Ordinance and Map. The old zoning law was adopted in 1991. The Village Comprehensive Plan was updated and adopted in April 2004. In January 2004, the Village Board authorized the Comprehensive Plan Committee to prepare an updated zoning ordinance and map to bring them into conformance with the newly adopted Comprehensive Plan with regards to (1) the vision for the village in the new plan and (2) assessing potential land uses and impacts from: (a) re-use of properties in the village; (b) development of vacant parcels in the village and (c) regulation of land in the village. This is the 5th draft by the Committee and Nussbaumer and Clark. The proposed, updated zoning ordinance, was recommended for approval by the Zoning Update Committee on November 8, 2004 and the Village Planning Board on November 9, 2004.

Mr. Martin reported that the Village Committee has (1) re-organized the entire document for clarity and ease of use; (2) the 1991 Zoning Map is replaced with a new map; (3) added a new section and standards in text on the Historic District (based on an extensive cultural resource survey done in 1990), requires design review by the Historic District Commission with appeal to ZBA and present Historic Preservation standards and (4) has separate sections for Signs, Telecommunications Towers, Dumpsters and Subdivisions. The Village is adequately addressing SEQR.

Staff recommendation is approval of the revisions to the Village of Ellicottville Zoning Ordinance and Map with three advisories:

Clarify language in Land Use Tables (Section 3 B-2) "Rental of dwellings for periods less than 30 days". Special Use Permit in HD Districts only. But, in the separate section on definitions, 30 day rentals are defined as "Nightly Rentals". The same language should be used in both places.

Publish Section 8, "Subdivision of Lands" as a separate document using a separate procedure for adopting or amending a subdivision ordinance or local law. If the village has never adopted these subdivision regs and procedures, they should be set forth in a new subdivision ordinance or local law. Zoning and Subdivision regs are authorized under different powers in state statutes, and subdivision regs and zoning ordinance should be kept separate from each other, although the village should coordinate purposes and requirements between them, and can publish both documents in tandem with each other for the convenience of users.

The Village may want to consider codifying all village ordinances and local laws, into one Book of Codes. In a Book of Codes, zoning and subdivision regs would be separate chapters, adopted and amended under separate state statutory powers.

Charles Couture moved with a second from William Sprague to approve the Village of Ellicottville revised Village Zoning Ordinance and Map with the three above stated advisories. Carried.

### **Village of Ellicottville - Area Variance - 28 Martha Street**

Kate Wagner reported that the Village of Ellicottville referred an Area Variance of the front yard setback to allow the applicant/owner to alter/extend an existing front porch/deck on a one family house located at 28 Martha Street. The house is located in the Village Commercial District, which requires a 10-foot setback. The applicant is applying for a 5-foot setback. A public hearing was held on November 30th with no one objecting. Staff recommendation is approval.

Bill Sprague expressed concern that setbacks should be consistent with the New York State Uniform Fire Prevention and Building Code, which require a 10-foot clearance between structures.

Terry Martin suggested that Bill's concern could be added as an advisory.

William Sprague moved with a second from Charles Couture to approve with an advisory the Village of Ellicottville's referred Area Variance for a front yard setback to allow an alteration/extension of an existing front porch/deck on a one family house located at 28 Martha Street. The advisory being: The setback should be consistent with the New York State Uniform Fire Prevention and Building Code. Carried.

**Village of Ellicottville - Special Use Permits - 18 E. Washington Street, 1 Maple Street, 37 Monroe Street - 30 day Rental**

Kate Wagner reported that the Village of Ellicottville has referred three Special Use Permit/Conditional Use Permit requests to allow rental of property for less than 30 days, which is an allowed use in the Village Zoning Ordinance. All three requests meet all zoning and conditional use permit requirements such as parking plan and setbacks. Eighteen East Washington Street is a single family 4 bedroom home; 1 Maple Street is a single family 2 bedroom home, and 37 Monroe Street is a single family 3 bedroom home. A public meeting was held on December 7, 2004 for 18 E. Washington and 1 Maple Streets. There were discussions about conditions of occupancy, parking, etc., but no major opposition. A public meeting will be held for 37 Monroe Street on January 11, 2005. All three are local issues with no inter-municipal or countywide concerns. Staff recommendation is approval of all three requests.

Jack Berger moved with a second from Tina Abrams to approve the Village of Ellicottville referral for a Special Use Permit/Conditional Use Permit request to allow rental of property for less than 30 days at 37 Monroe Street. Carried.

Charles Couture moved with a second from Florence Fuller to approve the Village of Ellicottville referral for a Special Use Permit/Conditional Use Permit request to allow rental of property for less than 30 days at 18 E. Washington Street. Carried.

Tina Abrams moved with a second from Paul Mager to approve the Village of Ellicottville referral for a Special Use Permit/Conditional Use Permit request to allow rental of property for less than 30 days at 1 Maple Street. Carried.

**Town of Ellicottville - Zoning Map Amendment - 6438 & 6430 E. Washington St.**

David Paoletta reported that the Town of Ellicottville has referred a request to rezone two parcels of land in order to accommodate a proposed townhouse development at 6438 and 6430 E. Washington Street. The zoning amendment will change zoning classification for two (2) parcels from Light Industrial-Service Commercial (LI-SC) / Medium Density Residential (MD) to High Density (HD) Recreation Commercial District (a total of 6.23 acres). The property owner intends to develop the property as a townhouse development in the future. It is currently being reviewed for the zoning change only. A site plan has not yet been developed. Both a site plan and special use permit application will be referred to the County Planning Board at some point in the future. The rezoning to High Density (HD) Recreation Commercial District is consistent with the zoning immediately adjacent to the northeast of these parcels, so it is not spot zoning. The proposed rezoning is consistent with the policies and goals of the Town Master Plan. SEQR is being adequately addressed by the Town. The Town Board has referred the application for rezoning to the Town Planning Board, which has unanimously recommended that the rezoning be approved. Staff recommendation is approval.

William Sprague moved with a second from Charles Couture to approve the Town of Ellicottville referral to rezone two parcels of land from Light Industrial-Service Commercial (LI-SC) / Medium Density Residential (MD) to High Density (HD) Recreation Commercial District (a total of 6.23 acres) in order to accommodate a proposed townhouse development at 6438 and 6430 E. Washington Street. Carried.

**Town of Ellicottville - Special Use Permit/Site Plan Review - Medical Office Building - 6135 Route 219 South**

David Paoletta reported that the Town of Ellicottville has referred a Special Use Permit and Site Plan Review for the construction of an 8,000 sq. ft. medical office building at 6135 Route 219 South that will be occupied initially by Northtown Orthopedics. An existing residence and accessory buildings will be demolished. The site has access to public sewer and water service. The facility will have a minor impact on total traffic volume on Rt. 219 from a trip generation standpoint (maximum 22 trips per hour). Parking is adequate (50 spaces) and meets local code. It has one curb cut and a suitable internal traffic circulation pattern. Detailed grading, landscaping and lighting, and utility plans have been prepared for the project and appear appropriate. The site plan is adequate and in compliance with the requirements of the Town of Ellicottville Zoning Ordinance. The facility is allowed by special use permit in a High Density Residential Zoning District. No environmental concerns (constraints to project) identified. A wetland area and 100-year floodplain are located on the property to the rear of the facility but will not be impacted by the project. The Town Planning Board is adequately addressing SEQR. Staff recommendation is approval.

Charles Couture moved with a second from William Sprague to approve the Town of Ellicottville referred Special Use Permit and Site Plan Review for the construction of an 8,000 sq. ft. medical office building at 6135 Route 219 South. Carried.

## **Environmental Reviews**

### **Village of Ellicottville - Lead Agency Status - Zoning Ordinance Revisions**

Mr. Martin reported that the Village of Ellicottville Board of Trustees is seeking SEQR Lead Agency Status for the Village of Ellicottville Zoning Ordinance revisions, which were discussed earlier. Staff recommendation is concurrence.

Florence Fuller moved with a second from David Rivet to concur with the Village of Ellicottville Board of Trustees as SEQR Lead Agency for the Zoning Ordinance revisions. Carried.

### **Town of Ellicottville - Lead Agency Status - Holiday Valley Medical Office Building**

David Paoletta reported that the SEQR Lead Agency request for the Holiday Valley Medical Office Building from the Town of Ellicottville was received on October 29th with a response date of November 29th. No response was made and constitutes concurrence with the Town of Ellicottville as Lead Agency.

### **Town of Ellicottville - Lead Agency Status - Conversion of power plant to waste wood fuel - Route 219 near intersection with Route 242**

David Paoletta reported that the SEQR Lead Agency request for the conversion of a power plant to waste wood fuel from the Town of Ellicottville was received on November 8, 2004 with a response date of December 6, 2004. No response was made and is considered concurrence with the Town of Ellicottville as Lead Agency. After reviewing the information presented in the SEQR Review, staff has no comments.

William Sprague stated that this is a major project and is within 100 feet of a major highway and near the entrance to the Village of Ellicottville.

David Paoletta stated that he believes this project will come before this Board in the future for review.

## **NYS Intergovernmental Reviews**

Kate Wagner reported that one NYS Intergovernmental Review numbered STW#04.043 had been received. Staff recommendation is received, reviewed, no comment. The Board members concurred.

## **OLD BUSINESS**

## **Eight-Year Review of the Perrysburg-Dayton-Leon Agricultural District**

David Paoletta reported that the 30-Day Notice of Public Review commenced on November 12th and will conclude on December 12th. During this 30-day public review period, anyone can make a request to be included in or excluded from the District. To date no official comments have been received. There is one issue in the Town of Perrysburg that has come to light. The Town is expanding a water district that involves about 40 parcels that are currently in the Ag District. The Town wanted to remove the parcels just by a Town Board motion. He had to inform them that the County Legislature is the only one that can officially remove parcels from an agricultural district with the consent of the property owners. He will continue to follow up on this issue and keep the Board informed.

## **Agricultural and Farmland Protection Plan Grant Award**

David Paoletta reported that the New York State Department of Agriculture and Markets has announced that Cattaraugus County's application for a \$50,000 farmland protection planning grant to develop an Agricultural and Farmland Protection Plan for Cattaraugus County has been approved. The State indicated that they are looking forward to working with the Cattaraugus County Agricultural and Farmland Protection Board in developing the plan. Mr. Rudgers, Commissioner of Ag & Markets stated, "Once completed, the public will have a better understanding of how agriculture and agricultural enterprises contribute to Cattaraugus County's economy, employment, quality of life, open space and recreation."

Mr. Paoletta stated that once a contract between the State and the County has been consummated, the next step will be the preparation of an RFP (Request For Proposal) and the selection of a consultant to assist with the development of the Plan. This probably will occur in late January 2005. It usually takes about 18 months from the signing of a contract to complete the Plan.

## **Reports**

### **Chairman's Report**

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

Route 219 - Terry Martin stated that Tom Livak, Dave Rivet and he have recommended that a special study be conducted about improving the local roads that will feed into the Route 219 Freeway when it is constructed, as well as making sure that trails and sidewalks are constructed in key areas so that a new freeway will not become a barrier for east-west access across Cattaraugus County.

Dave Rivet stated that NYSDOT has addressed our concerns about pedestrian traffic in their recent projects.

Terry Martin stated that the Route 219 Development Committee met on November 30th and received an update from Peter Nixon, Project Manager, NYSDOT concerning the status of the Route 219 Freeway. He indicated that the first section, Springville, Erie County to Peters Road in Cattaraugus County could be started as soon as the spring of 2006. The Committee also heard a presentation from Continental One, an organization representing the entire International Trade Corridor from Canada to Florida. They have received \$3 million in Federal Grants. A \$1.5 million from New York State DOT and \$1.5 million from Pennsylvania DOT. The Route 219 Development Committee will be working with Continental One to include Cattaraugus County's demonstration projects from our studies into their program.

Considerable discussion concerning the Route 219 Freeway.

### **Members Forum**

Seneca Allegany Casino - Tina Abrams reported that they are currently constructing a Parking Garage and a multi-floor Hotel. The parking garage is two months behind schedule because of weather. It is anticipated that they will be opening in March.

County IDA Tax Breaks - William Sprague expressed concern about the County IDA's new plan to extend tax breaks from 5 years to 10 years. A public hearing is scheduled for December 13th in the County Legislative Chambers on this issue and urged Board members to attend.

Proposed Demonstration Ammunition Plant - Charles Couture stated that on December 16th a public meeting will be held at the West Valley School concerning the proposed Demonstration Ammunition Plant. They have invited Senator Schumer to attend. It is hoped that the proposal can be brought closer to the front burner.

## **Director's Report**

Cattaraugus County Snowmobile Grant - Thomas Livak reported that Cattaraugus County has received \$204,000 in snowmobile trail maintenance funds, up almost three times from last year's grant. Cattaraugus County is currently 7th in the State as far as grant monies. Currently, there are 400 miles of snowmobile trails in Cattaraugus County.

2005 Travel Guide - Thomas Livak distributed copies of the new 2005 Travel Guide to the Planning Board members and reported that 175,000 copies have been printed for distribution. This is an increase of 40,000 over last year in anticipation of the opening of the NYS Visitors Centers on I-86.

Snowmobile Trails Map - Thomas Livak distributed copies of the Cattaraugus County Snowmobile Trails Map and indicated that 8,000 copies have been printed for distribution to snowmobilers. In addition, 24 x 30 maps have been printed and framed for establishments to display. Thanks goes to Joseph Williams of the Department's staff and Dan Martonis of the Real Property Tax Service staff for the creation of these maps.

Mr. Livak also thanked Senator Patricia McGee for grant money that was used for computers and software.

Chairman Bishop stated that the Travel Guide and maps are more professional looking every year.

## **STW Report - no report.**

## **Correspondence**

### **The following correspondence was received:**

- City of Salamanca - Zoning Map and Text Amendment for 316, 320-326, 356, 358 and 362 Front Avenue - adopted.
- Village of Perrysburg - Use Variance - 11855 Main Street - denied.
- Town of Allegany - Special Use Permit and amendment to an approved Site Plan to allow a take out "Carside to go" use and new take-out door at Applebee's located at 3067 West State Street - granted subject to conditions.
- Town of Allegany - Special Use Permit and Site Plan Review to allow the expansion of the Lippert Gravel Mine on South Nine Mile Road - granted subject to conditions.
- Village of Ellicottville - Special Use (Conditional Use) Permit - 17 E. Washington Street - rental for periods less than 30 days - granted pursuant to acceptance of conditions by the Applicant.
- Village of Ellicottville - Special Use (conditional Use) Permit - 5 Mechanic Street - rental for periods less than 30 days - granted pursuant to acceptance of conditions by the Applicant.
- Ruth L. Pierpont - Director Historic Preservation - NYS Office of Parks, Recreation and Historic Preservation - East Otto School - listed on the National Register of Historic Places.

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### **Next Meeting**

Chairman Bishop stated that the next meeting of the County Planning Board will be January 27, 2005.

### **Adjournment**

David Rivet moved with a second from Tina Abrams and Florence Fuller to adjourn the meeting. Carried.

### **APPROVED AS AMENDED: January 27, 2005.**

Amended Page 7, Seneca Allegany Casino, second line: delete the word "six" and replace it with "multi".

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