

Cattaraugus County Planning Board

CATTARAUGUS COUNTY PLANNING BOARD MEETING MEETING MINUTES December 30, 2021



PLANNING BOARD MEMBERS PRESENT VIA ZOOM:

Charles Couture, Chairman	Kathy Ellis
Paul Mager, Vice Chairman (Zoom)	Robert Keis
Mike Zaprowski, Secretary	Al Ormond
Andrea Mellon, Assistant Secretary (Zoom)	James Valent

DRAFT

PLANNING BOARD MEMBERS EXCUSED:

Tina Abrams	Dan Newbury
Daniel Brown	Mark Smith
David McCoy	

PLANNING DEPARTMENT STAFF

Crystal Abers, Director
Marie Myers Shearing, Planner
Kate O'Stricker, Development Specialist

GUESTS:

Grif Jones, Clean Choice Energy	Carol Zimmerlin, Tetra Tech
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1. Call to Order

Charles Couture, Chairman, called the virtual meeting to order at 7:05pm.

2. Welcome & Opening Remarks

3. APPROVAL OF MINUTES

3.1. November 18, 2021

Michael Zaprowski moved to approve with the noted correction with a second from James Valent. Motion carried.

4. NEW BUSINESS

4.1. General Municipal Law Section 239 (l) & (m) Referrals

4.1.1. Village of Ellicottville

Amendment to Zoning – Accessory Apartments

Planner Myers Shearing reviewed the referral. The amendment addresses and presents regulations regarding accessory apartments.

- Significant countywide or inter-community impact.
- Approved

Robert Keis asked what the differences between an accessory apartment versus an apartment. Planner Myers Shearing read out loud the definition from the amendment. Mr. Keis was satisfied with the definition.

Paul Mager moved to approve staff recommendation with a second from Michael Zaprowski. Motion carried.

4.1.2. City of Olean

Community Forest Management Plan

Planner Myers Shearing reviewed the referral materials noting report by Davy Resource Group. It was an interesting and thorough report. Planner Myers Shearing also stated that she thought that the tree species suggestions could be improved noting the mention of Norway Maple, which is not native and can sometimes be considered invasive. Since the City of Olean is a Tree City USA community, and she would like to see more communities in the County add more green infrastructure and tree canopy.

- Significant countywide or inter-community impact.
- Approved

Robert Keis moved to approve staff recommendation with a second from Andrea Mellon. Motion carried.

4.1.3. Town of Humphrey

Wind Energy Facilities Local Law

Planner Myers Shearing reviewed the referral and noted that this law was done by Attorney Gary Abraham and is similar to other laws we have seen recently. There are some typos and formatting errors, which are noted a red-lined document emailed to the Planning Board members. She also reviewed some of the specific errors highlighting the need for required modifications.

- Significant countywide and inter-community impact.
- Approved with modifications

Andrea Mellon asked if they would be holding a public hearing on the law. Planner Myers Shearing answered with the date of the public hearing as November 8th. Al Ormond said he found it interesting that the law puts some of the burden of decommissioning on the property owner. Charles Couture said many put it on just the company. Mr. Ormond continued saying that perhaps they put it in there to make the property owner think twice before entering into a lease agreement. Mr. Couture asked if Mr. Ormond wanted that changed, to which he replied, no, and that he just found it interesting and if he was a property owner he would not want to be in that situation. Planner Myers Shearing mentioned that it was a pretty thorough or restrictive law, and that the community really thought it through and that they have the setbacks and such they want.

Paul Mager moved to approve staff recommendation with the modifications with a second from Robert Keis. Motion carried.

4.1.4. Town of Great Valley

Special Use Permit

Planner Myers Shearing reviewed the referral materials noting that the recent review of the change in their zoning to allow manufactured housing in the rural residential area.

Planner Myers Shearing reviewed the survey and parcel conditions.

- No significant countywide or inter-community impact.
- Matter is of local concern.

Michael Zaprowski moved to approve staff recommendation with a second from Andrea Mellon. Motion carried.

4.1.5. Town of Allegany

Area Variance – 2311 Five Mile Road/Vacant Parcel

Planner Myers Shearing reviewed the referral materials noting the proposed build site is a land-locked parcel. The existing home parcel is zoned part residential and part floodplain overlay. The proposed build site is zoned as residential with floodplain overlay over the entire parcel. She also referred to the FEMA Flood map noting it is in the A8 zone. The parcel conditions include 100-year floodplain, wetlands (USFWS), and is in an archaeologically sensitive area. The variance is from Article V Section 5.04 Access to Street and reiterated a Variance Memorandum “extending a new blacktop driveway from the current driveway. This driveway will run through our current backyard where it will connect to an attached garage of our new house. We do not meet the zoning requirements for road frontage and are respectfully requesting a variance to make this back lot buildable.” Planner Myers Shearing noted that this referral does not fully meet all the requirements to justify a variance.

- No significant countywide or inter-community impact
- Advisories to ZBA: Does not meet all five (5) of the requirements to justify the variance, particularly §5 “Whether the alleged difficulty was self created.....”
The applicant knowingly purchased a land-locked parcel in the floodplain overlay district and located within the 100-year floodplain (all this information is publically accessible). In addition, it appears 2311 and 2315 already share a driveway and the limited space available for emergency vehicles is concerning (as well as construction vehicles).
- Matter is of local concern and returned to the ZBA for local determination with the request to consider the advisories noted above.

Al Ormond moved to approve staff recommendation with a second from Michael Zaprowski. Motion carried.

4.1.6. Town of Allegany

Zoning Determination

Planner Myers Shearing introduced the guests Grif Jones and Carol Zimmerlin. Planner Myers Shearing reviewed the parcel noting the westerly side of the parcel is zoned R-1 Single Family Residential and the easterly side of the parcel is zoned A-F Agricultural-Forestry. The referred matter is not subject to review under Section 239-l and 239-m and Planner Myers Shearing will issue a letter with the County’s determination of the zoning. The issue will be further discussed in the correspondence section of the meeting.

Grif Jones asked Planner Myers Shearing to clarify more what that means and what their next steps should be. Planner Myers Shearing replied that it will depend on what the Town of Allegany Zoning Board of Appeals Decides. If they decide to keep the zoning as is, the choices would be to apply for a Use Variance, which would be subject to Sections 239-l and -m for review by the County Planning Board.

4.2. Environmental Review

4.2.1. City of Olean

Community Forest Management Plan

Planner Myers Shearing noted that this review is for the Community Management Plan that was reviewed earlier as a referral. All of the SEQR documentation was sent and Planner Myers Shearing completed the agreement that the City of Olean act as Lead Agency for the review. She will be sending the agreement back to Keri Kerper at the City of Olean.

5. CORRESPONDENCE

5.1. Part 3 Town of Allegany – Solar Moratorium

Approved. Agreed with CCPB

5.2. Part 3 Town of Otto – Special Use Permit 8428 Scott Corners Road

Approved. Agreed with CCPB

5.3. Town of – Zoning Determination

The Town of Allegany Zoning Board of Appeals received a letter from Tetra Tech requesting a zoning determination. Planner Myers Shearing reviewed the Town of Allegany 2016 Zoning Map with the enlargement of a section that contains the subject parcel. She also reviewed a color-coded soil map for the west side of the parcel. Noting the soil types are primarily Prime, Farmland of Statewide Importance, and Prime, if Drained. The DEC EAF Mapper tool, which noted the Surface Waters, USFWS Wetlands, and the 100-year Floodplain (~2 acres).

Grif Jones interjected that the State DEC will not be taking jurisdiction over the wetlands, so they will be Federal. Planner Myers Shearing agreed that there are no state wetlands it is all USFWS.

Planner Myers Shearing went on to say that the zoning should stay as noted on the Town of Allegany 2016 Zoning Map. It is clearly defined and this stems from the Town of Allegany Comprehensive Plan from 2011 so it has been zoned as residential for 10 years. She also stated the parcel would be better suited as it is currently zoned to allow for single-family homes. A conservation subdivision would be ideal in this location due to its proximity to infrastructure. She also noted on the map the current surrounding usage is single-family residential lots. Re-zoning would contribute to a significant change to the character of the surrounding area; it is currently rural single family homes. Planner Myers Shearing also provided definitions of spot zoning.

Grif Jones requested that they be copied on the correspondence as he has some concerns, just so they understand what they are dealing with. Planner Myers Shearing agreed to the request.

Carol Zimmerlin stated she heard what Planner Myers Shearing said about this portion of parcel and that they discussed about the large portion of that section of that parcel being covered by wetland area, as well as a small section of floodplain and some utility lines running through there and some wildlife habitat. Given all those features of this portion of the R-1 zoned parcel do you still not think there are concerns with that potentially being developed as residential?

Planner Myers Shearing responded to the question saying she thinks where the residential would be placed in correlation to the roads that border each side of the parcel would be out of those wetlands, and asked if they planned on putting the concrete pylons that would support the solar panels in the wetland area.

Grif Jones replied that they are not concrete pylons, they are posts about 8 inches in diameter which as far as the Army Corps is concerned do not constitute fill in waters of the US. Noting houses would not be permissible in the wetlands, but what they are proposing would be permissible. To which Carol Zimmerlin added, ultimately temporary. Planner Myers Shearing asked what temporary meant, as in how many years. Grif Jones responded with 25 typically.

Andrea Mellon asked if there were additional roadways needed for the construction of this facility. Grif Jones replied typically no, they will have one access road. But the type of equipment they are using it remains grass covered and that they usually have a higher standard for stormwater and runoff than typical development does. Andrea Mellon went on to ask if the road be removed once construction is completed. Grif Jones answered the initial access road will be removed, but enough of a road will be left to be able to use a truck or ATV. Ms. Mellon also asked if they would need a SPEDES permit for the construction activity, to which Mr. Jones replied, yes.

Chairman Couture asked if there were any other questions or comments.

6. OLD BUSINESS

None

7. REPORTS / OTHER BUSINESS

7.1. Chairman's Report

Charles Couture – Charles shared that his church is having a nuisance pet problem with skunks and asked for any input on how to get rid of them.

A short conversation ensued about various methods they could try and places to purchase products.

7.2. Department Reports

7.2.1. Director's Report

- Crystal Abers – 2021 is winding down quickly. We have worked hard to set goals for next year. Just notified from State about a 1 million dollar grant from the Consolidated Funding Application for docks at Onoville Marina. Started one loan with a business with a few others we are working on. Busy with CDBG for a variety of grants for projects throughout the County. 2021 has been a busy

crazy year. 2022 does not look that it will be back to normal. The County will be handing out KN95 masks to a variety of businesses, municipalities, and the public, etc. We hired an Environmental Planner, named Rachael Draegert, and she will start next Tuesday.

7.2.2. Staff Reports

7.2.2.1. Kate

- ARC Trails Grant – Had trouble moving data from B&L to CattCo. Launch of the App has been postponed to January 13th. She was just notified yesterday that the data has transferred and we should be all set to go.
- Land Bank – Two rehabs left that will be done by the end of January and we will be looking for houses. We have processed 51 houses either by demolition or rehabilitation in the last four years.
- MHRI – Process of ending the \$600,000 grant. Five new manufactured homes have been replaced. And we will be working on the grant awarded in September for \$300,000. The lottery system with 10 applicants has been completed, with 5 that qualified for the program. Of those, two manufactured houses will be replaced.

7.2.2.2. Marie

- Note to Carol & Grif, please direct any questions or comments to me.
- Exciting to have Rachael to start and once again share the office.

7.3. Administration

7.3.1. Training

Planner Myers Shearing commended the board on the amount of training accomplished.

7.3.2. January Meeting & 2022 Schedule

Organizational meeting and review of 2021. We have at least doubled the amount of referrals referred to the County for the year.

7.3.3. Emails and Calls

Planner Myers Shearing noted some members have expressed that they are not getting her emails. Her email mmyers@cattco.org. Due to a long and often misspelled last name, she has shortened it to better insure I receive communication. When information is mailed, please make sure to add “EDPT” or “Planning” to the address to help the mail person easily sort the mail. If anyone sends or emails something that requires a response and you do not receive a call or email in return. Please contact her again, as everyone should all know that she regular responds as required. Regarding quorum, she will only call if she has not heard from you.

Mileage, please have all mileage forms submitted by Thursday, January 6, 2022 in order to close out the year. Please contact Marie if you have any questions about your mileage.

7.4. STW Report

Robert Keis reported

Congress passed an infrastructure package specific to ARC, it will provide 1 Billion dollars over the next 5 years. ARC has been reauthorized for the next five (5) years, meaning the Appalachian Regional Commission program will continue through October 1, 2026. It creates a new regional energy hub initiative authorized at 5 million dollars per year to support research and grants for ethane storage facilities. It reworks ARCs existing Broadband authorization to require the ARC to request information from the FCC, EDA, and USDA concerning the level of the broadband service in the area to be served before making a grant, specifies at least 65% of the funds be for construction and deployment of infrastructure. Provides 1.25 billion over 5 years for the Appalachian Development Highway System (ADHS) for highway infrastructure. Rural Surface Transportation grant program with 25% reserved of the available funding available each year for further completion of the ADHS. Provides up to 15% of the funds to states under certain provisions of the state transportation block program may be transferred to the ADHS. New broadband equity access and deployment program in the Dept. of Commerce ARC funds may count as the non-federal match for grants under that program. Local Government program, Houghton program is projected for May or June. Created software for municipalities to update their own websites. This is a big issue due to the new law about information discussed at a meeting (Town Board, Planning Board, etc.) must be posted 24 hours prior to the meeting. It will change the CAP membership fees depending on how much the municipality is capable of doing on their own. There will be trainings coming up on that subject. STW will charge \$200 a day for records management for them to come in to organize old records. GIS services will continue to be available at \$50/hour. Cemetery data collection will be 20 cents a headstone, which has been done for a few communities. Drone services available include drone work with cameras, infrared, etc.

7.5. Members Forum

Paul Mager asked about the NYS law that is pending to go into effect in 2022 after being passed in 2019 that will prohibit you from heating your house with firewood. He thought it just dealt with outside boilers, but now it appears it may prohibit you from heating your home with firewood. NYS Climate Leadership and Community Protection Act.

- Kathy Ellis did not recall seeing anything about it. Crystal will reach out to NYSAG for information. Many people in the area use wood to heat their homes.

Mikael Zaprowski updated the board on the large number of cannabis dispensaries in the Salamanca area.

Robert Keis asked if anyone has heard anything about the ability to continue Zoom meetings. The current order expires on January 15, 2022. If it is extended, he will be able to participate in meetings from Florida until March. However, if it is not extended, he may need to resign from the CCPB.

- Crystal has seen any directive yet, but believes it will be extended but has not heard or sure yet.

Happy New Year!

8. UPCOMING MEETINGS & EVENTS

8.1. As noted in the Agenda

9. NEXT MEETING

9.1. January 27, 2022

10. ADJOURNMENT

Michael Zaprowski motioned for adjournment, Paul Mager seconded motion. Motion passed. Meeting adjourned at 7:50pm.