

**Cattaraugus County Planning Board
December 27, 2018**

PLANNING BOARD MEMBERS PRESENT: Charles Couture, Chairman
Paul Mager, Vice Chairman
Michael Zaprowski, Secretary
Robert Keis
Kathy Ellis
Andrea Mellon
Dan Newbury
Al Ormond
Tina Abrams
David McCoy

PLANNING BOARD MEMBERS ABSENT: Paul Mager, Vice Chairman
Mark Smith
James Valent

PLANNING DEPARTMENT STAFF: Crystal Abers, Director
Paul Bishop, Planner
Kate O’Stricker, Development Specialist
Pat McGlew, Development Specialist

GUESTS: Valessa Souture-Kline, Kevin Clapsadle, Todd Tilly, Bob Macubbin,
Jeanie McCarthy, Diana Hettrick, M. Raul, Gary Abraham, Ginger
Schroder, Stephanie Milks, Denise Willard, Geoff Milks, Marsha North,
Daniel Spitzer, Aaron Saykin, Bob Mrowka, Tom Dinki (OTH)

Charles Couture, Chairman, called the meeting to order at 7:00 pm.

1.0 APPROVAL OF MINUTES

Al Ormond moved with a second from Dan Newbury to accept the minutes from the November 29, 2018 meeting. Motion was carried.

2.0 NEW BUSINESS

2.1 General Municipal Law Section 239 (l) & (m) Referrals

2.1 a. Town of Farmersville- Local Law- Wind Energy Facilities

Discussion with guests: County Planner Paul Bishop explained to the guests that New York State is a home rule state. The County has very little control as to what happens at a municipal level. The purpose of the County Planning Board is to review any proposed action with intercommunity or county wide considerations. The County Planning Board will recommend approval, modification or disapproval of the proposed action, or report that the action has no significant county-wide or inter-municipal impact.

If the County Planning Board recommends disapproval the referral body (town board) will not act contrary to the planning board's actions except by a vote of a major plus one of all of the members of the board (supermajority).

Guests:

- Resident was told by the County Board of Health to take concerns to the Siting Commission. Who is in charge of the Siting Commission, who do you take health concerns to for projects such as this. No outside scientific evidence that this will not affect residents. Where do residents take their concerns?
- There is a forum for public comments. Invenergy has filed an application with the state. The application can be seen at the Arcade Library, Farmersville Town Hall, and Rushford library. State will now hold a public hearing where residents can voice their concerns. The local law process has to go in to the application by Invenergy which includes studies of the impact done by consultants hired by Invenergy. The Town Hall meetings are for residents to voice concerns on the local law. Evidence will be looked at by the state Siting Board. There is a forum and residents are encouraged to participate with it.
- Residents were told that they can become a "party" personally to the state review and can upload all of your comments to the state website. You can make sure the siting body sees all of the information you have. New York State Siting Board is the body that will review this. This Board is appointed by the Governor.
- A resident discussed that the Town Board still has a duty when adopting a local law and should be addressing the potential health impacts. In this case, the town did not do that.
- Representative from Invenergy explained the SEQR form states that a local law needs to have Part C completed (on page 2). The Planning Board has no authority to determine if the forms are complete or incomplete; the job is to act as a regional planning board. Wind projects are exempt from SEQR if they are over 25 megawatts. The SEQR form is for the Wind Law only; there is nothing about health effects. It is about the Law and the Law doesn't authorize anything. It sets standards for any project that has been approved unless it is overridden by the state. The SEQR form that is in front of you meets the statute. The Statute says that you are to submit what you used to make your determination. This form was completed by Mark Alianello, who is one of the best engineers in the county. The Town hired an outstanding engineer to take them through the process, they submitted precisely what they used to do the form to make the determination for SEQR. You have a complete referral. It is ready to go.
- A Board Member pointed out that the SEQR form has conflicting information in what is filled out. There are questions that have both yes and no as an answer. They are asking that the Town fill out the form correctly and resubmit it.
- A Representative of Invenergy stated that the Board should determine if the SEQR meets the Statute, not if the form is complete. Statute says they are to turn over the form to the Planning Board that they used to make a determination. The Board does not have the authority to determine whether the form is complete. The Board can send the form back or the Board can make suggestions on the law, which is what the town is looking for. This is about home rule and a community making a decision and not having people from outside the

community decide what is best for them. If the Board would like the Town representatives to come to discuss this, send a letter. They do not want to come and be sued for bias.

- Resident asked about what the committee's roles were and who gets the final say in whether the law is passed.
- A County Board representative answered the Town has the final say.
- The County Planner discussed that the referral is for the Law, not a project and there are no environmental impacts with the law. Environmental impacts come along with the project. Residents will have a chance further in the process to argue the environmental impact.
- A representative for residents proposed that a law does have the potential for environmental impact. SEQR required that the law has to go through the full environmental impact review. There are cases on the books that say that a law affects the entire town. It exceeds the SEQR threshold for number of acres and it becomes a Type 1 Action with significant environmental impact. Therefore the full form (all three parts) need to be completed. The local law allows 600 foot turbines through the entire town, the law allows these to be built in the entire town. Invenergy may be the first project, but there may be other projects later. The Town Board is required to look at the potential of adverse impacts from doing this. It states in the DEC SEQR Cookbook that if the action is the adoption of a local law or plan, the project is what is affected by the local law or plan. Include all land in the Town and the potential impact of ALL the land in the town if it is a town wide law. When this happens, the form must be completed and the town needs to take a hard look at potential environmental impacts.
- County Planner: reported that as long as there is a full EAF with negative declaration, it meets the requirements for SEQR Review.
- The representative from Invenergy repeated that a wind farm is exempt from the SEQR process if they are over 25 megawatts.
- The representative for the people repeated that the discussion is not about a wind project, but is about the wind law for the town. The 25 megawatt provision is for a project not a law.

County Planner: announced that the Planning Board had been advised by the County Attorney to not make an action on the referral if a representative from the town was not present to explain the questionable answers and to send it back to the town to be completed so that the board could interpret it correctly.

STAFF RECOMMENDATION: An incomplete referral was submitted. The referral will be sent back to the Town for clarification.

*Al Ormond moved with a second from Kathy Ellis to accept the staff recommendation.
Motion carried*

2.1 b. Town of Ellicottville - Comprehensive Plan Update

This is an update to the Town of Ellicottville's Comprehensive Plan adopted in 2006 and amended in 2012.

- Numerous updates to tables to add more recent data.
- Discussed pedestrian and bike facilities and recommended adoption of a Complete Streets Policy.
- Added section about the Ellicottville Great Valley Trail
- Added objective to support the implementation of the EGVT Master Plan
- Added objective to coordinate with the Village and NYSDOT to facilitate expansion of sidewalks and pedestrian access
- Added objective to locate intensive or high-density development in existing public water and sewer districts and proximate to the Village or other developed areas
 - TAX MAP NO'(S): N.A.
 - SEQR: Unlisted Action - Full EAF submitted
 - AG DATA STATEMENT: N.A.
 - FLOODPLAIN: N.A.
 - WETLANDS: N.A.
 - ARCHAEOLOGICAL SENSITIVE AREA: Yes
 - PUBLIC HEARING: Held Wednesday, December 19th at 6:00 PM at the Ellicottville Town Hall

STAFF RECOMMENDATION: The proposed action has no significant county-wide or inter-municipal impact.

Andrea Mellon moved with a second from Mike Zaprowski to accept the staff recommendation. Motion carried

2.1 c. Town of Allegany – Special Use Permit - 3015 West State Street

Paul Bishop stated: The applicant wishes to reconstruct his former Subway business (destroyed by fire in 2018) using the same building footprint as the previous business.

- The special use permit is requested since the applicant wishes to install a drive thru to the reconstructed business.
- The applicant anticipates, based on the previous volume of his business, approximately 30 cars using the drive thru on a daily basis.

- The distance from the drive thru to West State St. will allow for 5 cars to queue up without impacting traffic on West State St.
- The site plan shows, from West State St., ingress to the drive thru on the west side of the building and ingress and egress on the east side of the building. Due to the close proximity to other intersections in the area, it is suggested that only ingress be allowed from West State St. and egress be through the back of the property to Park St.

Discussion with Guests:

- Resident discussed that there has been work completed on the property already. Trees have been removed and the foundation is in the process of being constructed. There is no public hearing on this until January 14th, 2019.
- The County Planner discussed that the Town of Allegany has an exemption agreement with the County that stipulated that a special use permit does not have to be submitted to the County Planning Board. It is only done as a courtesy if they want the County Planning Board to make comment on the project. They may be moving forward with the construction because it did not have to be referred to the Board. The Town stated that there did not need to be a public hearing, but they will have one as a courtesy in the middle of January.
- A resident spoke indicating that the Town had already approved the site plan and issued the special use permit. The 402 district use regulations in the Town of Allegany Ordinance says that to add a drive thru requires a special use permit which requires a public hearing.
- Residents are concerned about the traffic flow with the number of cars that will be in the queue and lined up on Route 417, blocking Allegany Street.
- Resident indicates the aerial view shows there is a lot of room to build this, however, her property is attached and she does not believe there is room. There is also a sidewalk through the property so that there will not be room for the extra cars to use drive thru with the pedestrian and bicycle traffic. Area will be impacted and she wants these things taken into consideration before the project is built.
- Residents did not want the traffic to only exit on Park St, due to the narrow road. A truck and a bus cannot pass on this road.
- Residents would prefer not to have the drive thru due to the impact it will have on the pedestrians, bicyclists and traffic.
- A Board Member asked how the drive thru would change the traffic pattern. Will the drive thru increase the number of vehicles by that much to change the traffic pattern?
- The County Planner announced that the residents are discussing issues that need to be brought up at the public hearing with their municipality.
- A Board Member discussed that the exemption is for sending the referral to the County Planning Board, but the Town should still have to have the public hearing for the special use permit for the drive thru.

- A Board Member discussed that if the Town has already given a permit erroneously, a code enforcement officer would need to initiate a stop work order.
 - TAX MAP NO'(S): 94.062-1-23
 - SEQR: Unlisted Action - Short EAF Submitted
 - AG DATA STATEMENT: N.A.
 - FLOODPLAIN: No
 - WETLANDS: No
 - ARCHAEOLOGICAL SENSITIVE AREA: Yes
 - PUBLIC HEARING: To be held January 14, 2019 at 7:00 PM at the Allegany Town Hall

STAFF RECOMMENDATION: The proposed action has no significant county-wide or inter-municipal impact.

Dan Newbury moved with a second from Tina Abrams to accept the staff recommendation. Motion carried

2.2 Environmental Reviews: None

2.3 Intergovernmental Reviews: None

3.0 OLD BUSINESS

None

4.0 REPORTS / OTHER BUSINESS

4.1 Chairman's Report: None

4.2 Department Reports:

4.2 a. Director's Report

Crystal Abers discussed 2018 and how busy it was. At January or February's meeting she will share a Power Point for the year in review.

4.2 b. Comprehensive Plan Implementation (Goals Referenced)

Community Revitalization (Goal #6): No New Applications. Kate is working with Portville on a kiosk. Hopefully we will have an application from them soon.

County Trails (Goal #8): Working on the priority list of trails to be GIS'd once funding is approved. Meeting will be in February

Land Bank (Goal #6): The old Casey's Restaurant in Limestone has been demolished. Two more in Olean will be coming down this week on Adams Street and West Henley

ARC Community Development (Goal #4): Getting survey responses back from municipalities and participants of the workshops in June 2018. Also sending binder with the final report. Have also asked communities if they are interested in working on a community action plan.

ARC Cultural Development Grant (Goal #4): None at this time

4.3 Training

Paul Bishop updated the training hours of Board members for 2019.

DOS Webinars: Solar Energy - All Ormond reported on this training - Code issues versus zoning issues and to establish a standard location for power cut offs at the northwest corner of the project for fire departments in case of emergency. There will be two more webinars in January.

Sexual Harassment Training for Board Members: Crystal Abers will work with the County's Human Resources Department to provide the training to Board Members.

With multiple trainings becoming mandatory, Bob Keis offered information about training options that can be purchased for smaller businesses with less than 50 employees, there is an on-line organization that will do this for \$30 a month for employee training.

4.4 STW Report

- Angel Fund has been established for Small Businesses
- There is a substantial amount of loan funds that are available
- Houghton Annual Training will be May 9th (Thursday)

4.5 Members Forum - None

5.0 CORRESPONDENCE AND UPCOMING MEETINGS / EVENTS

(attached to the back of the agenda)

6.0 NEXT MEETING

The next meeting of the Planning Board will be held on January 31, 2019 at 7:00 pm at the County Center in Little Valley.

7.0 ADJOURNMENT

Mike Zaprowski moved to adjourn with a second from Bob Keis at 8:02 pm.