

ONTARIO COUNTY PLANNING BOARD

Referrals for Review at the: **Coordinated Review Committee Meeting –Tuesday August 9, 2022, at 3:30pm – County Planning Board Meeting –August 10, 2022 at 7:00pm Hybrid Meeting Click Join Meeting hyperlink below**
 Telephone: 585-396-4455

Referral	Municipality_2	Applicant	Application Type	Class	Page
143	Town of Gorham	Douglas & Kathleen Crane	Area Variance	AR 2	3
144	Town of Manchester	Town of Manchester	Local Law	2	4
146	Town of Canandaigua	Marathon Engineering	Area Variance	AR 2	6
147	Town of Canandaigua	Marathon Engineering	Site Plan	Exempt	7
148	Town of Canandaigua	Venezia & Associates	Minor Subdivision	Exempt	8
149	Town of Canandaigua	Venezia & Associates	Special Use Permit	1	8
150	Town of Naples	David M. Hanggi	Area Variance	1	9
151	Town of South Bristol	Town Board	Text Amendment	2	9
152	Town of Farmington	Christine Bellomo	Special Use Permit	Exempt	10
153	Town of Farmington	Ralph Baranes	Site Plan	AR 1	10
154	Town of Hopewell	Finred LLC	Map Amendment	2	10
155	Town of Hopewell	John Richelsen	Subdivision	1	14
156	Town of Hopewell	John Richelsen	Site Plan	1	16
157	Town of Richmond	Romero, Patrick & Kristen	Use Variance	2 Lake referral	16
158	Town of Richmond	Zeigler, Carol	Area Variance	AR 1 Late Referral	16

There is no referral 145-2022

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Wednesday, August 10, 2022

7:00 PM | (UTC-04:00) Eastern Time (US & Canada) | 2 hrs 30 mins



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Call To Order/Roll Call: Len Wildman called the 8/10/22 CPB meeting to order at 7.00 and requested Ms. Holley to do roll call. Ms. Holley presented roll call and reported that there were (7) members present virtually and (6) members physically at 20 Ontario Street, meeting the quorum requirement.

Staff: Linda Phillips, Senior Planning and Erin Holley, Senior Clerk

Guests: None

Minutes –

- *Motion made* by Steve Groat to approve the July 13, 2022 minutes, seconded by AJ Magnan **Motion carried**

Cities	Member name in bold if on local legislative, planning, or zoning board	P-Present	V-Virtual	A-Absent	E-Excused	Absence
Canandaigua	Doug Dello Stritto					E
Geneva	Paul Passavant	P				
Towns						
Bristol	AJ Magnan ZBA	P				
Canadice	Stephen Groet PB	P				
Canandaigua	Shawna Boneshak	V till 830				
East Bloomfield	Mike Woodruff PB	V				
Farmington	Ted Liddell	V				
Geneva	Steven High	P				
Gorham	Vacant	-----				-----
Hopewell	Vacant	-----				-----
Manchester	Tammy Worden	V				
Naples	Marion Mueller	V				
Phelps	Glen Wilkes ZBA	P				
Richmond	Leonard Wildman PB	P				
Seneca	Roslyn Grammar	V				
South Bristol	Bessie Tyrrell PB					E
Victor	Mike Crowley					E
West Bloomfield	Ruth Cahn ZBA	V				
Alternate Member	Jack Dailey					A

143 -2022 Town of Gorham Zoning Board of Appeals Class: AR 2
 Type: *Area Variance*

Applicant& owner: *Douglas & Kathleen Crane*

Tax Map Parcel #: *113.15-1-18.000*

Brief Description: *Area variance to allow 31.5 percent lot coverage when 25 percent is allowed and allow 5' side setback when 15' is required for new deck and open porch improvements at 3928 and 3930 East Lake Road in the Town of Gorham.*

Policy AR 5 Applications involving one single family residential site, including home occupations. Part B Development of Lakefront Parcels.

- B. The following applies to all development on parcels with lake frontage that require;
- variances pertaining to lot coverage or,
 - variances pertaining to side yard setbacks or,
 - variance pertaining to lake shore setbacks

The CPB’s role of reviewing and making recommendations on county wide development has provided a unique perspective on the trend of more intensive development and use of lakefront lots. Of particular concern are the incremental negative impacts to water quality and the character of our lakefront

neighborhoods. The following policy is a result of discussion and debate spanning 18 months as well as consultation with outside agencies directly involved with water quality issues in Ontario County. The intent is to address over development of lakefront lots and support the clearly stated interest by local decision makers to do the same.

Final Classification: 2

Findings:

1. Protection of water features is a stated goal of the CPB.
2. The Finger Lakes are an indispensable part of the quality of life in Ontario County.
3. Increases in impervious surface lead to increased runoff and pollution.
4. Runoff from lakefront development is more likely to impact water quality.
5. It is the position of this Board that the legislative bodies of lakefront communities have enacted setbacks and limits on lot coverage that allow reasonable use of lakefront properties.
6. Protection of community character, as it relates to tourism, is a goal of the CPB.
7. It is the position of this Board that numerous variances can allow over development of properties in a way that negatively affects public enjoyment of the Finger Lakes and overall community character.
8. It is the position of this Board that such incremental impacts have a cumulative impact that is of countywide and intermunicipal significance.

Final Recommendation: Denial

Comments:

1. The referring body is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot.
2. The applicant and referring agency are strongly encouraged to involve Canandaigua Lake Watershed Manager as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures.

144 -2022

Town of Manchester Town Board

Class: 2

Type: *Local Law*

Applicant: *Town of Manchester*

Brief Description: *Local law to replace existing solar energy system zoning regulations in the Town of Manchester.*

<https://ontariocountyny.gov/DocumentCenter/View/35345/144-2022-manchester-solar>

The local law establishes 3 tiers of solar energy systems and outlines allowable location and standards for each:

- Tier One -roof or building integrated solar energy collection systems up to 10 KW. Tier One systems are permitted accessory uses in all districts.
- Tier Two- Ground mounted systems generating a maximum of 110% of site consumption or not exceeding 4,000 SF of collection area or 25 KW rated capacity. Tier Two systems are permitted accessory structures in all districts.
- Tier Three -larger systems. are allow in GI, LI, Rail Enabled Industrial, Open Space, and Corridor Overlay districts (districts used in proposed code and map)

All solar energy generation and battery storage systems must meet requirements of NEC, IEC, UL and the NYS Building code.

Comments

1. Depending on the timing of adoption, this local law will need to reference districts and standards in the existing zoning code or the proposed zoning code.

2. The referring body may want to consider adopting the NYS Unified Solar Permit for ground and roof top mounted solar energy systems producing less than 25 MW (currently defined Tier 1 and 2 systems). See page 75/pdf page 77 of the NYS Solar Guidebook for local governments for a customizable Unified Solar Permit Application.
<https://www.nyserda.ny.gov/All-Programs/NY-Sun/Communities-and-Local-Governments/Solar-Guidebook-for-Local-Governments> and Town of Richmond Residential Solar permit application.
<https://townrichmond.digitaltowpath.org:10135/content/Departments/View/7:field=documents:/content/Documents/File/1240.pdf>
 3. This local law regulates roof mounted and building integrated solar energy systems as accessory structures; the law should clarify that such solar systems are appurtenances to a primary or accessory building and subject to the height, setback and other requirements for such buildings.
 4. The waiver of requirement for Agricultural Conservation Easement if the land has not been farmed for 5 or more years could be a disincentive to lease land to farmers.
 5. The regulations do not identify agricultural viability/agricultural character/agricultural drainage infrastructure, visual character, or appropriate buffering as areas of local concern for solar projects of all sizes. While NYS has appropriated many aspects of local review for large scale solar projects, local municipalities may request consideration of locally identified goals and development standards.
 6. The referring body may want to clarify timing of submission of the “proof of concept” and decommissioning plan and relationship of listed requirements to the Planning Board site plan and special use permit approval process and the CEO building permit review.
 7. The local law does not specify standard for cessation of activity, though the intention appears to be operation at 80 percent of approved capacity to avoid decommissioning.
 8. The local law does not require submission of a site-specific operations and maintenance plan to ensure continued adequacy of landscaping, erosion control and other conditions of approval.
 9. For the definition (and intent) of Tier 1 and Tier 2 the Town should consider a requirement (statement) that the electric generated on site is to be primarily utilized on the premises, whether by existing uses or ones proposed and to be constructed at the same time as the solar installation, including by use to power Electric Vehicles owned and operated by the residents or businesses located thereupon.
 10. The limitation to 110% of electricity consumed on the site over the previous 12 months is problematic. What if this is a new building or a building that converts its heat source from fossil fuel to electricity? In either case the applicant would either have to wait a year and pay high utility bills before they could construct an adequately sized solar system. Better to have the applicant present a calculation of on-site demand. There are industry standards to reference to see if the numbers are within reason. They might want to specify how demand is calculated. Finally, in light of the State’s Climate Leadership and Community Protection Act and the draft (at this point) Climate Action Plan, they have to account for residents and businesses wanting to use solar power to charge their electric vehicles. This will add greatly to demand and needed generation capacity.
 11. Referring body should clarify whether a single property can have both a Tier one and a Tier two installation at the same time. If yes, then the cumulative generation capacity should not exceed 110% of on-site demand.
 12. This local law does not address battery storage, especially important for Tier 3 (but also a potential component for Tier 1 &2). Battery storage standards should address things like signage, registration with the town/ fire department of hazardous material containing battery storage systems, location of the storage facility (setbacks, lot coverage, etc.), emergency vehicle access, special fire suppression system requirements, fencing, etc.
- CRC Comment** Town may want to address regulation of battery energy storage separately to avoid delay in adoption of revised solar regulations.

Final Classification: 2

Findings:

1. Protection of water features is a stated goal of the CPB.
2. The Finger Lakes are an indispensable part of the quality of life in Ontario County.
3. Increases in impervious surface lead to increased runoff and pollution.
4. Runoff from lakefront development is more likely to impact water quality.
5. It is the position of this Board that the legislative bodies of lakefront communities have enacted setbacks and limits on lot coverage that allow reasonable use of lakefront properties.
6. Protection of community character, as it relates to tourism, is a goal of the CPB.
7. It is the position of this Board that numerous variances can allow over development of properties in a way that negatively affects public enjoyment of the Finger Lakes and overall community character.
8. It is the position of this Board that such incremental impacts have a cumulative impact that is of countywide and intermunicipal significance.

Final Recommendation: Denial

Comments:

1. The referring body is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot.
2. The applicant and referring agency should Consult with the Ontario County Highway Department and ensure that the sight distances for the proposed driveway comply with standards established by the American Association of State Highway and Transportation Officials (AASHTO).
3. The applicant and referring agency are strongly encouraged to involve the Canandaigua Lake Watershed Inspector or the Ontario County Soil and Water Conservation District as early in the review process as possible to ensure proper design and placement of on-site septic.
4. The applicant and referring agency are strongly encouraged to involve Canandaigua Lake Watershed Manager as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures.

OCDPW Comments

1. Applicant is required to obtain a highway work permit for any proposed work within a County highway right-of-way and shall pay all necessary fees & comply with all permit conditions and restrictions. Highway Work Permit forms can be found on Ontario County website at <http://www.co.ontario.ny.us/1260/Highway-Work-Permits>.

OCSWCD Comments

1. More detail needed regarding rain garden design and placement.
2. Current plans show portion of raingarden, including outlet structure, located within FEMA floodplain.
3. Information needed regarding depth to water table. Will infiltration be possible at 3 feet of depth in this area?
4. Consider two rows of silt fence along east boundary near lake.
5. Soil borrow area and topsoil stockpile are indicated in the same area. Show sequence of events for clearing of site.
6. Concrete truck washout must be 100 feet from all stormwater inlets (drain in front of garage).

Related Referrals: 146-2022

Applicant: *Marathon Engineering*

Tax Map Parcel #: 154.09-1-21.000 & 154.09-1-22.000

Brief Description: *Site plan and area variance for demolition of existing cottages and replacement with 1 year-round home at 5007/5009 CR 16 in the Town of Canandaigua. Proposed front setback is 40' when 60' is required. Proposed rear setback is 37' when 60' is required. Proposed lot coverage is 27.7 when 25 percent is allowed. There is also a required variance for distance of expanded pre-existing, non-conforming driveway from the property line. The Planning Board must also approve the lot line adjustment.*

See information at 146-2022.

148 -2022 Town of Canandaigua Planning Board Class: *Exempt*
 Type: *Minor Subdivision*

Related Referrals: 149-2022

Applicant: *Venezia & Associates*

Property Owner: *Anthony & Elizabeth Tripodi*

Tax Map Parcel #: 96.00-1-39.111

Brief Description: *Minor subdivision and amended special use permit to apply to created 74 acre lot for contractor yard separate from 7 acre lot for existing house at 4993 CR 32 in the Town of Canandaigua.*

149 -2022 Town of Canandaigua Planning Board Class: *1*
 Type: *Special Use Permit*

Related Referrals: 148-2022

Applicant: *Venezia & Associates*

Property Owner: *Anthony & Elizabeth Tripodi*

Tax Map Parcel #: 96.00-1-39.111

Brief Description: *Minor subdivision and amended special use permit to apply to created 74 acre lot for contractor yard separate from 7 acre lot for existing house at 5993 CR 32 in the Town of Canandaigua.*

<https://ontariocountyny.gov/DocumentCenter/View/35347/148-2022-CR-32-5993-2022-07-11-Subdivision-Map>

The lot is located in the AR 2 zoning district which allows contractor yards by special use permit.

Comments

1.The referring body should require a site plan that documents which 30 percent of the proposed 74 acre contractor yard can be used for structures, parking, and equipment, which 15 percent for stockpiling materials, and any required butter area.

2.The special use permit granted in 2018 waived requirement for 10’ perimeter buffer. The referring body should re-evaluate whether perimeter buffer areas are required to protect the

residence once the lot is subdivided and whether any modification of site lighting is required.
 3. The referring body should review a revised site operating plan.

Board Motion: To retain referral 149-2022 as a class 1 and return it to the referring body with comments.
Motion made by: Tammy Worden **Seconded by:** Glen Wilkes **Vote:** 12 in favor, 0 opposed, 0 abstentions
Motion carried

150 -2022 Town of Naples Zoning Board of Appeals Class: 1

Type: *Area Variance*

Applicant: *David M. Hanggi*

Tax Map Parcel #: *201.00-1-7.100*

Brief Description: *Area variance for 6' front setback from NYS 21 ROW when 60' is required for the construction of a 6'x26' covered porch on existing barn at 7976 SR 21 in the Town of Naples.*

<https://ontariocountyny.gov/DocumentCenter/View/35348/150-2022-aerial>

<https://ontariocountyny.gov/DocumentCenter/View/35349/150-2022-site-plan>

The 60 acre parcel includes land on both sides of SR 21. The existing barn is on the east side. The applicant has indicated the purpose of the porch is to provide safer access for customers.

Comments

1. Does the proposed porch encroach on any required parking/or maneuvering area for site visitors?

Board Motion: To retain referrals 150-2022, 155-2022, and 156-2022, as class 1s and return them to the respective local boards with comments. **Motion made by:** Paul Passavant **Seconded by:** Steve Groet **Vote:** 12 in favor, 0 opposed, 0 abstentions **Motion carried**

151 -2022 Town of South Bristol Town Board Class: 2

Type: *Text Amendment*

Applicant: *Town Board*

Brief Description: *Text amendment to add Special Event Venue regulations to the Zoning Code of the Town of South Bristol.*

<https://ontariocountyny.gov/DocumentCenter/View/35350/151-2022-South-bridol-special-event-venue>

The law would add a definition of Special Event Venue and list it as a specially permitted use on parcels of 10 or more acres in the Neighborhood Commercial and Planned Development districts. The law limits hours of operation to 10 am to 11 pm and maximum attendees to 300, though the Planning Board or Zoning Board may impose more restrictive conditions based on the health, safety, and welfare of attendees and/or the neighborhood and surrounding community. The event management plan shall specify hours of operations and maximum attendees; provisions for adequate primary and secondary access, including emergency vehicle access; adequate parking and potable water and sanitary system; and provision of adequate buffers to adjacent

three new buildings and a coffee kiosk in an existing building.

<https://www.ontariocountyny.gov/DocumentCenter/View/34344/87-2022-aerial>

<https://www.ontariocountyny.gov/DocumentCenter/View/35351/154-2022-rendering>

This property was previously reviewed as referral 87-2022 in May 2022 as a site plan for renovation of the existing house for office use.

The intent of the Planned Unit Development regulations is to provide flexible land use and design regulations/performance criteria to accommodate large scale neighborhoods with a variety of residential types and non-residential uses. The objectives of the PUD also include maximizing usable open space and recreation areas, the preservation of trees, and the prevention of soil erosion.

Town of Hopewell PUD regulations prefer a minimum 10 acre site; the lot proposed for rezoning to PUD is 4 acres. The applicant has indicated the site is appropriate for designation as a PUD in spite of its size due to its location near FLCC and existing retail uses.

Town of Hopewell PUD regulations anticipate a minimum of 30 percent of PUD dwelling units as single family units and a gross density of 4 units per acre; the proposed project includes all apartments and is 15.5 or 16.1 units per acre. The applicant has indicated the development density of the FLCC dorms is 12 units per acres while that of the Campus Lodge Gate apartments is 16.1 units per acre.

Application materials highlight that the Town of Hopewell 2006 Comprehensive Plan identified the lack if available rental housing and growth and development policy and objectives to accommodate development in proximity to existing public utilities and commercial uses without impacting active farmland. The Comprehensive Plan growth and development policy and objectives also call for protection of natural features including buffer areas along streams to protect water quality.

The key points from the applicant's summary of how the project meets objectives of the PUD regulations are as follows:

1. Project adds long term rental options to the dormitory and week to week rentals currently available in the area.
2. The project provides open space; tenants can also use the public open space of the FLCC campus.
3. The location is within walking distance of department stores, restaurants, bank and FLCC.
4. The trees on the site are poor quality and not suitable for preservation. The creek area will be preserved and enhanced during this project.

The proposed units are characterized as 1,000 SF two-bedroom/two bath units with master suites for working class families and students. The site plan that would be the basis of the PUD shows 2 buildings and associated parking at the eastern side of the site and a third apartment building that would require demolition of the existing house that is undergoing renovation as an office. The coffee kiosk would appear to be planned in an outbuilding at the rear of the site. The development is intended to be completed in 4 phases with the first phase including only site work, phase 2 including the southeast building, followed by the central building and finally demolition of the existing house and construction of the third apartment building closest to Fall Brook Creek.

The development plan includes 93 parking spaces or .73 spaces per bedroom; code requires 1 parking space per bedroom. Parking is provided on the ground floor of the building for 10 of the 15 spaces provided for each apartment building.

The development plan shows a full movement driveway connection with US 5/SR 20 at the existing house driveway. There is a proposed concrete sidewalk from SR 5/US 20, around the building area, and to the boundary of the adjacent student apartments on Finger Lakes College Suites Drive at the rear of the site. There is a gap in the sidewalk connection across this adjacent site to FLCC.

The site plan shows 2 bioretention areas, both of which outlet to Fall Brook Creek. The grading plan and erosion and sediment control plan indicate significant grading within the stream channel enlargement area shown on the base survey. No landscaping or lighting plans are provided, though some streetscape, building, and parking area landscaping is shown on a color rendering.

Comments

1. The referring body should make sure the applicant has taken into consideration the draft FEMA floodplain boundary associated with Fall Brook Creek. Bioretention area 1 may be subject to future flooding.
2. The referring body should consider requiring the applicant to complete a gap analysis to evaluate whether the proposed density of development/traffic generation can be safely accommodated via a full movement stop controlled driveway connection to SR 5/US 20 at this location.
3. Consider specifying that the re-zoning reverts to existing zoning if construction of apartments is not started within 2 years of date of final rezoning approval.
4. Will any areas remain undisturbed or available as usable open space?
5. What is width of undisturbed vegetation to provide usable open space and a buffer to Fall Brook Creek? The Towns of Canandaigua (100') and Town of Gorham have minimum stream bank setbacks.
6. The referring body should require sidewalk along the SR 5/US 20 frontage for eventual connection to the existing sidewalk and cross walk with pedestrian signal at the intersection of CR 50/Lakeshore Boulevard and SR 5/US 20 approximately 175' west of the subject property.
7. The referring body should encourage the applicant to talk with the adjacent property owner about an off-site sidewalk connection that would benefit applicant tenants by providing pedestrian and bicycle access to FLCC and adjacent property tenants by providing a shorter connection to the signal at SR 5/US 20.
8. Will geo turf areas be plowed to provide year round emergency access to rear of apartments?
9. Topsoil stockpile and construction staging area are very close to proposed building; will location provide sufficient maneuverability of construction equipment?
10. What is building coverage and lot coverage? The C-1 district allows 70 percent lot coverage for senior housing while the High Density Residential district allows 40 percent lot coverage for senior housing and 30 percent lot coverage for other multi-family uses. The Hopewell Town Code includes stormwater management area in lot coverage.
11. Based on 63 units on 3.9 acres the proposed gross residential density is 16.1 units/acre, not 15.5 units per acres as stated.
12. What number of units will be ADA compliant or visitable by those with mobility impairment (min. 36' entry door and step-less entry, preferably with access to bathroom)?

CRC Comments

1. The PUD plan should provide space for streetscape, parking area, building, and perimeter landscaping as required by Town of Hopewell code including 1 deciduous tree for every 50' of street frontage and 1 planting island for every 10 parking spaces. The Town should also consider whether the desired character in the area is urban by means of evenly spaced trees of uniform size/structure or a rural by means of clusters of vegetation of diverse species, size and structure.

2. Will parking be sufficient if students chose to live two to a bedroom? Where will guests park?
3. Where is snow storage?
4. Proposed density of 16.1 unit per acre is very high.
5. Will coffee kiosk seek drive-by customers through signage on SR 5/US 20? If so, is adequate circulation and stacking provided?

CPB Comments

1. The referring body should request the applicant to show the proposed draft FEMA flood boundary on the proposed development plan and future site plan.
2. What on-site or off-site features (creek buffer/trail, sidewalk interconnection to south, landscaping) is the applicant offering to justify the density?

CLCSD Comments

1. The Canandaigua Sewer District will require demolition permit and conference prior to removing existing building and capping of the existing sewer as close as practical to the existing main.
2. Plan review will need to occur for new site detailing size and slope of proposed sewer lateral connections.
3. Owner will be subject to sewer rent reassessment.
4. Could units be occupied by more than 4 students?

OCSWCD Comments

1. A double silt fence should be installed adjacent to Fall Brook Creek, a class C stream
2. Concrete truck washout must be a minimum of 100 feet from all surface inlets.
3. Consider additional stabilization of overflow of bio-retention area 2 in area of steep slope.

Findings

1. Ontario County has a substantial interest in protecting and improving the function of its intermunicipal transportation infrastructure.
2. The Ontario County Planning Board encourages referring bodies to properly consider road capacity and traffic safety of referred projects.
3. This PUD involves an unsignalized driveway connection to SR 5/US 20 in close proximity to CR 50 and the change in travel lane configuration to accommodate auxiliary turning lanes/stacking space/deceleration space for the SR 5/US 20 /CR 50 signalized intersection.
4. Expansion of bicycle and pedestrian infrastructure is important to support active transportation. Active transportation expands mobility options and promotes healthy activity.
5. Protection of water features and minimizing risk of flooding are stated goals of the CPB.
6. Vegetated stream corridors provide important ecosystem services including uptake, storage, and filtering of runoff.

Board Motion: To retain referral 154-2022 as a class 2 and return it to the local board with comments and a recommendation for approval with the following Modifications:

1. The referring body should refrain from taking final action on this application without written response from NYSDOT regarding access connection location/spacing, examination of intersection safety as assessed by a gap analysis, and whether any density or turning movement restrictions are warranted to maintain the capacity and safety of the highway.
2. The referring body should refrain from taking final action on this application without written response from adjacent property, FLCC Associates, regarding joint development of a pedestrian, bicycle, and/or vehicle connection. Any vehicle connections would likely be at the recommendation of NYSDOT and related to recommended turning movement restrictions.

3. The referring body should refrain from taking final action on this application without consulting with the Canandaigua Lake Watershed Manager regarding potential water resource project impacts.

Motion made by: Paul Passavant **Seconded by:** Shawna Bonshak **Vote:** 12 in favor, 1 opposed, 0 abstentions
Motion carried.

155 -2022 Town of Hopewell Planning Board Class: 1
 Type: *Subdivision*

Related Referrals: 156-2022

Applicant: *John Richelsen*

Representative: *William Grove*

Tax Map Parcel #: 72.00-1-12.100

Brief Description: *Subdivision and site plan for creation and development of four .9 acre lots and four 7.4 acre lots on a 32 acre site west of Smith Road/East Avenue at Stoddart Road in the Town of Hopewell.*

https://ontariocountyny.gov/DocumentCenter/View/35365/155-2022_7200-1-12100_Aerial-Photo-Map

https://ontariocountyny.gov/DocumentCenter/View/35366/155-2022_7200-1-12100_Agriculture-Map

<https://ontariocountyny.gov/DocumentCenter/View/35352/155-2022-subdivision-site-plan>

According to OnCor, the property and adjacent properties to the east, south, and to the west across the outlet are in Ontario County Agricultural District #1. OnCor also indicates there are areas of existing 100 year floodplain and slopes of 16 to 30 percent along the Canandaigua Outlet. No significant change in floodplain extent is shown on new draft floodplain maps.

Soil characteristics of the site are as follows:

Lakemont Silty clay loam , 0-3 percent 6 acres

Farmland of Statewide Importance

Permeability: moderately low **Erodibility:** very high

Hydrological Group D **Partially Hydric**

Schoharie silty clay loam, 3 to 8 percent slope, 18.8 acres

Prime Farmland

Permeability: moderately high **Erodibility:** very high

Hydrological Group C/D **Not Hydric**

Schoharie silty clay loam 8 to 15 percent slope, 4.7 acres

Farmland of statewide importance

Permeability: moderately high **Erodibility:** very high

Hydrological Group C/D **Not Hydric**

The poorly drained Lakemont soils are located along ½ of the Smith Street frontage.

The lot is zoned A-G. A-G zoning requires minimum of 30,000 SF lots with 75' front setback and 15' side and rear setbacks. The parcel soils are all prime farmland or farmland of statewide importance and therefore subject to the Prime Farmland Overlay. The intent of the Prime Farmland Overlay is to protect against the

irreversible loss of prime farmlands and prevent non-agricultural uses from negatively impacting viability of such farmland. Based on the Prime Farmland Overlay, a maximum of 9.6 acres may be subdivided for non-agricultural use.

The proposed subdivision indicates 6 lots of 38,000 SF with individual driveways along Smith Road and an additional driveway for proposed large lot 1. Proposed large lots 3 and 7 have no access to a public road. Proposed large lot 8 includes the existing residence with driveway near the northwest property line on East Avenue. Larger lots 1, 3, 7, and 8 back to the Canandaigua Outlet. Lots 1,3, and 7 include remnant of a pasture fence. There is no existing vegetative buffer between the proposed small residential lots and large lots potentially intended for agricultural use

Application materials to not include any percolation test results for the proposed lots.

Comments

1. What are lot widths/frontages and depths for the small lots?
2. What is future use and access for lots 3 and 7?
3. The referring body should ensure acceptable soil conditions for proposed septic systems based on percolation tests.
4. What provisions have been made for erosion and sediment control during construction and stormwater management during and after construction?
5. The subdivision plan does not retain 70 percent (22.4 acres) of the parent lot as a single parcel to preserve the viability of prime farmland for agricultural use as seems to be required by the Prime Farmland Overlay.
6. The Prime Farmland Overlay defines prime farmland in reference to soil categories in the Ontario County Agricultural Enhancement Plan and to Soil Groups used by OC Soil and Water Conservation District and the Town Assessor to determine agricultural value assessment. Subdivision applications within the Prime Farmland Overlay, should be required to include a map clearly showing soil types and groups.
7. The methodology for allowable development in the Prime Farmland Overlay is confusing. The regulations are also not clear regarding preservation of lands not subdivided. Are such lands permanently prohibited from further subdivision? Is future development of such lands allowed? The referring body and Town Board may want to consider whether the Prime Farmland Overlay is protecting farmland as intended or if other strategies should be considered.

OCSWCD Comments

1. No erosion and sediment control plans provided. Unable to make comments.

Board Motion: To retain referrals 150-2022, 155-2022, and 156-2022, as class 1s and return them to the respective local boards with comments. **Motion made by:** Paul Passavant **Seconded by:** Steve Groet **Vote:** 13 in favor, 0 opposed, 0 abstentions **Motion carried**

Board Motion: To accept late referrals 156-2022 and 157--2022. **Motion made by:** Paul Passavant **Seconded by:** Steve High **Vote:** 12 in favor, 0 opposed, 0 abstentions **Motion carried.**

156 -2022

Town of Hopewell Planning Board

Class: 1

Type: *Site Plan*

Related Referrals: 155-2022

Applicant: *John Richelsen*

Tax Map Parcel #: 72.00-1-12.100

Brief Description: *Subdivision and site plan for creation and development of four .9 acre lots and four 7.4 acre lots on a 32 acre site west of Smith Road/East Avenue at Stoddart Road in the Town of Hopewell.*

See information at 155-2022.

157 -2022 Town of Richmond Zoning Board of Appeals Class:2 Late Referral
 Type: *Use Variance*

Applicant & Owner: *Patrick & Kristen Romero*

Tax Map Parcel #: 135.20-2-21.220

Brief Description: *Use variance to allow use of a 2,880 SF building at 8653 Main Street in the Town of Richmond and zoned for industrial or commercial use as temporary residence.*

https://ontariocountyny.gov/DocumentCenter/View/35367/157-2022_13520-2-21220_Aerial-Photo-Map

The property and both adjoining properties are zoned Industrial. The existing land use is commercial to the east and multi-family residential to the west.

The applicant is requesting short-term occupancy by parents for health and financial reasons until September 12, 2022 and consideration of continued personal use as needed. No evidence of financial hardship presented.

CRC Comment does the building meet code requirements for residential occupancy?

Findings:

1. County Planning Board has an interest in ensuring local boards carefully consider the implications of granting use variances and adhere to the four prong unnecessary hardship test outlined in NYS statute.
2. The referred materials do not include any dollars and cents financial evidence, that the applicant cannot receive a reasonable rate of return for any of the allowed uses.

Board Motion: To retain referral 157-2022, as class 2 and return it to the local referring body with comments and a recommendation for denial of the use variance. **Motion made by** Steve Groet **Seconded by:** Glen Wilkes

Vote: 13 in favor, 0 opposed, 0 abstentions **Motion carried.**

158 -2022 Town of Richmond Zoning Board of Appeals Class:AR 1 Late Referral
 Type: *Area Variance*

Applicant & Owner: *Carol Zeigler*

Tax Map Parcel #: 150.38-3-21.000

Brief Description: *Lot coverage variance to allow 37 percent lot coverage with proposed 275 SF deck when 30 percent lot coverage is allowed at 8477 East Clairmonte Street in the Town of Richmond.*

Policy AR-5: Applications involving one single family residential site, including home occupations.

The intent of this policy is to:

- Address residential development that may infringe on County ROW's or easements for roads and other

infrastructure.

- Address traffic safety along intermunicipal corridors by encouraging proper placement of residential driveways along County roads.
 - Address impacts to ground and surface waters
- C. Applications subject to policy AR-5 and not involving lakefront lots with coverage, or side or lakefront setback variances or with encroachments on County rights-of-way.

Final Classification: Class 1

Findings:

1. One-and two-family residential uses represent 63% of the 49,354 parcels on the 2017 Ontario County assessment roll. Between 2012 and 2017 1,067 single family residential parcels were added and 13 two-family were removed. These parcels represent 89% of all parcels added county-wide.
2. Collectively individual residential developments have significant impacts on surface and ground water.
3. Proper design of on-site sewage disposal is needed to protect ground and surface waters.
4. Proper storm water and erosion control is also needed to achieve that same end.
5. Proper sight distance at access points along County roads is an important public safety issue of county wide significance.
6. Standards related to protecting water quality and traffic safety have been established by agencies such as the American Association of State Highway and Transportation Officials (AASHTO), and NYSEDC.
7. These issues can be addressed by consulting appropriate agencies during local review and ensuring that those standards are met

Final Recommendation – With the exception of applications involving lakefront properties or encroachments to County owned rights-of-way described in AR Policy 5 Parts A and B, the CPB will make no formal recommendation to deny or approve applications involving one single family residential site, including home occupations.

Comments

1. The Town is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot.

General Information

The Ontario County Planning Board (CPB) was established by the Ontario County Board of Supervisors under the provision of NYS General Municipal Law Article 12-B Section 239-c. County Planning Boards. The state legislature determined in §239-c. 1. (a), (b), (g) & (f):

1. Legislative findings and intent. The legislature hereby finds and determines that:

(a) Significant decisions and actions affecting the immediate and long-range protection, enhancement, growth and development of the state and its communities are made by county planning boards.

(b) County planning boards serve as an important resource to the state and its localities, helping to establish productive linkages between communities as well as with state and federal agencies.

(f) The great diversity of resources and conditions that exist within and among counties requires consideration of such factors by county planning boards.

(g) It is the intent of the legislature therefore, to provide a permissive and flexible framework within which county planning boards can perform their power and duties.

Note: I, (d), and (e) refer to the county comprehensive plan.

The CPB membership consists of one representative from each of the 16 towns and 2 cities who are selected by the town board or city council and formally appointed by the Board of Supervisors for terms of 5 years. Members representing a town, also represent any village(s) located with the town.

General Summary of CPB Review Responsibilities

This section provides a general summary of the CPB's roles and responsibilities. The specific responsibilities of a county planning board are found in §239 l, m, & n and the CPB Bylaws approved by the Ontario County Board of Supervisors. (Links: Complete §239 text Page151: [Guide to NYS Planning and Zoning Laws](#) and [Ontario County Planning Board Bylaws under "Quick Links"](#))

The Ontario County Planning Board reviews certain zoning and planning actions prior to the final decision made at the village, town, or city level and makes a recommendation to the municipality. Although CPB review is required, the action is advisory in nature and can be overridden at the local level (super majority if a recommendation for denial or approval without recommended modification).

NYS law spells out the types of actions reviewed by the CPB:

- Adoption or amendment of zoning regulations (text and/or map)
- Comprehensive plans
- Site plan approvals
- Special use permits
- Variances
- Any special permit, exception, or other special authorization which a board of appeals, planning board or legislative body is authorized to issue under the provisions of any zoning ordinance
- Subdivisions

NYS law specifies that CPB is required for the above actions to occur on real property lying within a distance of 500 feet from any:

- Boundary of any city, village, or town boundary
- Existing or proposed county or state park or other recreation area,
- Right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, existing or proposed right-of-way,
- Stream or drainage channel owned by the county or for which the county has established channel lines, or
- Existing or proposed boundary of any county or state owned land on which a public building or institution is situated.

General Procedures

The Ontario County Planning Board meets once each month to review referred local actions for intermunicipal and countywide impacts. They are separated into two categories: Class 1 & Class 2. Class 1s are applications that the CPB has formally decided have little potential intermunicipal or countywide impact. For Class 2 applications, the CPB has determined that there will be potential impacts before voting to approve, modify or deny.

Legal Obligations for Referring Agencies

Class 1: If an application has been returned to the referring agency as a Class 1, then the only requirement is that they consider any Board comments forwarded to them by the CPB. Referring agencies are asked to read any Board Comments into the minutes of a meeting or hearing held for the subject application.

Class 2: If the CPB has voted to deny or modify a referred application, then the local board needs a majority plus one vote of their full board to act contrary to that decision. CPB approvals without modification require no extraordinary local action. However, in all cases, the referring agency is still required to consider CPB comments as they would for Class 1 applications.

Incomplete Applications

Referrals need to meet the definition of “full statement of such proposed action” in NYS General Municipal Law. The CPB’s determination regarding the completeness of a particular application is supported by factual findings and is made, whenever practical, after consulting with the submitting official or the chairs of referring agencies. The CPB will not make a recommendation on an application that they have determined to be incomplete. NYS General Municipal Law, Article 12-b Section 239-m I

Reporting back to the CPB

Report of final action – Within thirty days after final action, the referring body shall file a report of the final action it has taken with the county planning agency or regional planning council. A referring body which acts contrary to a recommendation of modification or denial of a proposed action shall set forth the reasons for the contrary action in such report.”

NYS General Municipal Law, Article 12-b Section 239-m, Part 6.

Administrative Reviews

The Ontario County Planning Department prepares administrative reviews of referrals as authorized, in accordance with the CPB bylaws. The bylaws include criteria that identify applications that are to be reviewed administratively and specify the applicable recommendations that are to be made to the municipality. AR 1 is an administrative review that is a Class 1 and AR 2 is a review that is a Class 2. An AR 2 requires a majority plus one for the local board to act contrary to the recommendation for disapproved just like Class-2 referrals reviewed by the full Board. The following table summarizes the policies under which administrative review is allowed and guidance regarding class designation and recommendation based on the CPB bylaws.

Administrative Review (AR) Policies: – Ontario County Planning Board By-Laws Appendix D	
AR Policy 1	Any submitted application clearly exempted from CPB review requirements by intermunicipal agreement
AR Policy 2	Applications that are withdrawn by the referring agency
AR Policy 3	Permit renewals with no proposed changes
AR Policy 4	Use of existing facilities for a permitted use with no expansion of the building or paved area (Applications that include specially permitted uses or the addition of drive through service will require full Board review)
AR Policy 5 A. Class 2 Denial	Applications involving one single-family residential site infringing on County owned property, easement or right-of-way.
AR Policy 5 B. Class 2 Denial	Applications involving one single-family residential site adjoining a lake that requires an area variance
AR Policy 5 C.	All other applications involving a site plan for one single-family residence.
AR Policy 6	Single-family residential subdivisions under five lots.
AR Policy 7 A. Class 2 Denial	Variances for signs along major designated travel corridors.
AR Policy 7 B.	Applications involving conforming signs along major travel corridors.
AR Policy 8	Co-location of telecommunications equipment & accessory structures on existing towers and sites (Applications that require a special use permit or for new towers or increasing the height of an existing tower require full Board review)

4th Thursday 2022 Monthly Municipal Boot Camp Program presented by MRB Group and Hancock Estabrook

<https://www.hancocklaw.com/events/the-2022-municipal-bootcamp/>

September 22, 2022 – 6:00-7:00 pm What Not to Say & What Really Not to Do – avoiding sexual harassment

October 27, 2022 – 6:00 to 7:00 pm A History Lesson – managing projects with historic significant

December 22, 2022 - 6:00 to 7:00 pm Santa’s Nice and Naughty List – the best and worst of 2022

New York Planning Federation trainings are free if your municipality is a member.

Call or e-mail with membership number or to pay and participate as a non-member. 518-512-5270 or email nypf@nypf.org

NYPF Recorded Webinars THE ESSENTIALS OF PLANNING AND ZONING

Introduction to Planning, Zoning and Land Use

Everything You’ve Ever Wanted to Know About Preparing a Comprehensive Plan

Understanding and Applying SEQRA (NY State Environmental Quality Review Act)

The What, Why, and How of Site Plan Review

Common Mistakes and Mishaps in Site Plan Review

MEETING PROCESS AND COMMUNICATION

Enhancing Transparency Effectiveness in Planning Proceedings

Innovations and Best Practices for Planning/Zoning Boards

Engaging Diverse Communities and Dealing with Difficult People

Working with Elected Officials and Understanding Everyone’s Role in Planning

The Open Meetings Law for Zoning and Planning Boards, Part 2

Working with Developers to Foster Investment in the Community

Communication, the Media and Social Media

Open Government and Planning and Zoning Decision Making

The NY Conference of Mayors also offers virtual and recorded webinars for member villages and cities <https://www.nycom.org/training/webinars>

NYSCOM Annual Convention Sagamore Hotel May 17-19, 2023

NYSCOM Recorded webinars

ACCESSING FEDERAL FUNDING FROM FEMA (recorded 7-29-20) | Speakers: Robert T. Kennedy, Mayor of the Village of Freeport and NYCOM President; J. Andrew Martin, CFM, Public Assistance Section Chief, NYS Division of Homeland

Security and Emergency Services; Janet Plarr, Village Administrator, Village of Blasdell; and Donna Lyudmer, Village of Saltaire

ADOPTING LOCAL LAWS AND CONDUCTING REFERENDA | (recorded 6-24-21) | Speaker: Rebecca Ruscito, NYCOM Counsel

ARPA FUNDING: OVERVIEW OF ALLOWABLE USES AND OTHER REQUIREMENTS (recorded 8-3-21) | Speakers: Peter Baynes, NYCOM Executive Director and Barbara VanEpps, NYCOM Deputy Executive Director

CELL TOWERS AND WIRELESS REGULATIONS AND A CASE LAW UPDATE (recorded 12-15-20) | Speakers: Wade Beltramo, NYCOM General Counsel and Rebecca Ruscito, NYCOM Counsel

CONDUCT MEETINGS NOW AND DOWN THE ROAD: NAVIGATING THE FUTURE OF MEETINGS AND HEARINGS AS COVID NUMBERS DROP (recorded 3-18-21) | Speakers: Wade Beltramo, NYCOM General Counsel; John Mancini, NYCOM Counsel and Rebecca Ruscito, NYCOM Counsel

ETHICS FOR ZBA AND PLANNING BOARD PROCEEDINGS (recorded 12-9-21) | Speaker: Wade Beltramo, NYCOM General Counsel

FAIR HOUSING CONSIDERATIONS FOR MUNICIPALITIES (recorded 12-16-21) | Speakers: Charles Grieco, Bond, Schoeneck & King; Moderator: Wade Beltramo, NYCOM General Counsel

GRANTS TRAIN IS AT THE STATION: GET READY FOR THE RIDE AHEAD! | (recorded 5-6-21) | Speaker: Jim Thatcher, Manager, Community Development, C.T. Male Associates

LAWYERS AND ETHICS FOR ZBAS AND PLANNING BOARDS (recorded 12-10-20) | Speaker: Wade Beltramo, NYCOM General Counsel

NEW YORK'S MARIJUANA LEGALIZATION: WHAT DOES IT MEAN FOR LOCAL GOVERNMENTS? | (recorded 4-15-21) | Speakers: Wade Beltramo, NYCOM General Counsel; John Mancini, NYCOM Counsel; Rebecca Ruscito, NYCOM Counsel

PLANNING AND ZONING HOT TOPICS AND CASE LAW UPDATE (recorded 12-14-21) | Speakers: Terry Rice, Partner, Law Office of Terry Rice; Moderator: Wade Beltramo, NYCOM General Counsel

REGULATING CANNABIS OPERATIONS (recorded 12-7-21) | Speakers: Wade Beltramo, NYCOM General Counsel; Corey Auerbach, Barclay Damon, LLP

SOLAR PANELS, LARGE SCALE ENERGY GENERATION SITING, AND LOCAL ZONING (recorded 12-17-20) | Speakers: Wade Beltramo, NYCOM General Counsel and Rebecca Ruscito, NYCOM Counsel

Adjournment: Being no further business for discussion, Chair Wildman requested a motion to adjourn the 8/10/22 County Planning Board meeting. ***Motion to adjourn made by Glen Wilkes seconded by Steve Groet Motion carried.*** 8/10/22 CPB meeting adjourned at 8:45.

Respectfully submitted by Linda Phillips, Senior Planner