

ONTARIO COUNTY PLANNING BOARD

Referrals for Review at the: **Coordinated Review Committee Meeting – November 9, 2021 at 3:30pm –**
County Planning Board Meeting –November 10, 2021 at 7:00pm Hybrid Meeting Click Join Meeting hyperlink below

This document will serve as both the **draft** minutes for the Ontario County Planning Board and as the **Official Notice of Findings and Decision** for the applications reviewed by the CPB. It can also be viewed at the Ontario County Planning Department Website <http://www.co.ontario.ny.us/index.aspx?nid=516>

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Results Key - Recommended action: A g approve, A-M = Approve with Modification, D = disapproval NA = No Action

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Wednesday, November 10, 2021

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Call To Order/Roll Call: Chair **Wildman** called the 11/10/21 CPB to order at 7:05 and requested Ms. Holley to do roll call. Ms. Holley presented roll call and reported that there were 8 (eight) voting members present virtually and 5 (Five) voting members and one alternate present at 20 Ontario Street meeting the quorum requirement.

Cities	Member name in bold if on local legislative, planning, or zoning board	A – Absent, E – Excused Absence, P-Present, V- present Virtually		
		P	V	E/A
Canandaigua	Vacant			
Geneva	Paul Passavant	P		
Towns				
Bristol	AJ Magnan ZBA		V	
Canadice	Stephen Groet PB	P		
Canandaigua	Shawna Bonshak		V	
East Bloomfield	Mike Woodruff PB		V	
Farmington	Patti Wirth		V	
Geneva	Steven High	P		
Gorham	Jack Dailey			A
Hopewell	Bill Namestnik			E
Manchester	Sue Kell		V	
Naples	Vacant			
Phelps	Glen Wilkes PB	P		
Richmond	Leonard Wildman PB	P		
Seneca	Vacant			
South Bristol	Bessie Tyrrell PB		V	
Victor	Mike Crowley		V	
West Bloomfield	Ruth Cahn ZBA		V	
Alternative member	Doug Dello-Stritto	P		

OCPD: Linda Phillips, Senior Planner; Erin Holley, Senior Clerk

Guests: Ryan Destro/BME-Orchard Brook subdivision.

Minutes Motion made by Steve Groet to approve the October 13, 2021 minutes, seconded by Glen Wilkes (required Sue K.) Motion carried

213 - 2021	Town of South Bristol Zoning Board of Appeals	Class: AR 2
Referral Type:	Area Variance	
Applicant & owner:	Troser Management Inc	
Representative:	Timber Frames Inc.	
Tax Map No(s):	167.00-1-51.111	
Brief Description:	Area variance for 45 SF new sign at Bristol Mountain, 5662 SR 64 when the Town of South Bristol allows 32 SF.	

Policy AR-7: Signs

The County Planning Board has long taken an interest in supporting local efforts to limit excessive signage. The Board has identified SR 64 as a primary travel corridor for tourists visiting Ontario County: The intent is to protect the character of development along these corridors by encouraging local boards to adhere to their adopted laws as much as possible.

A. All applications for signs located on property adjoining primary travel corridors that do not comply with local limits on size and/or number.

Final classification: Class 2

Findings:

1. The proposed sign is on land within 500' of a corridor identified by the Board as being a primary travel corridor for tourists visiting Ontario County.
2. Protection of the community character along these corridors is an issue of countywide importance.
3. Local legislators have standards for signage that allows for business identification sufficient to safely direct customers onto the specified site.
4. It is the position of this Board that the proposed signage is excessive.
5. Excessive signage has a negative impact on community character.

Final Recommendation – Denial**Comments**

1. The referring board should grant the minimum variance necessary to allow identification of the business and its products.
2. What are the letter heights on the proposed sign? As outlined on this sign company website, 3" letters have high visibility at 30' and are readable at 100'. Based on the information provided it is estimated letter heights are 8" to 10" which are readable at 350' to 450' and the sign company characterizes as having high impact at 80' to 100'. <https://www.signazon.com/help-center/sign-letter-height-visibility-chart.aspx>.

214 - 2021	Town of West Bloomfield Town Board	Class: Exempt
Referral Type:	Local Law	
Applicant:	Town of West Bloomfield	
Brief Description:	Local law for the Town of West Bloomfield to opt-out of licensing and establishing cannabis retail dispensaries and/or cannabis on-site consumption establishments within its boundaries.	

215 - 2021	Town of Victor Planning Board	Class: 1
Referral Type:	Site Plan	
Applicant & owner:	Pet Pride of NY Inc	
Tax Map No(s):	15.01-1-60.100	
Brief Description:	Site plan and special use permit for 3,100 SF addition to existing Pet Pride facility at 7731 SR 251 in the Town of Victor. https://ontariocountyny.gov/DocumentCenter/View/31775/215-2021-aerial https://ontariocountyny.gov/DocumentCenter/View/31776/215-2021-site-plan-pet-pride	

The addition will be located southeast of the existing 1,349 SF cat shelter, authorized as a Business occupancy in a Residential B zoning district by special use permit in 1998. The addition will disturb .6 acres of the 14.9 acre site and include a surgical suite. Site modifications will include 9 additional parking spaces on the east side of the driveway and an emergency vehicle turnaround at a passenger vehicle loop at the end of the driveway extension near the east end of the addition. The addition will be 47' feet from the closest property line when the required side setback is 15'. The applicant has requested removal of 35' of vegetation in the 1,000' forever wild area established at the time of initial special use permit to accommodate construction activities and avoid damage to the addition roof from overhanging branches.

Comments

1. What is the width of the passenger vehicle loop to the east of the addition?
2. What is the proposed slope of the areas along the western side and northern sides of the disturbed area? Natural looking slopes are typically 5:1 or less.

CRC Comments What other business uses would be allowed this special use permit in this expanded building?

Board Motion: To retain referrals 215-2021, 216-2021, 217-2021, 221-2021, and 225-2021 as class 1s and return them to the local board with comments.

Motion made by: Paul Passavant **Seconded by:** Steve Groet

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

216 - 2021	Town of Victor Planning Board	Class: 1
Referral Type:	Subdivision	
Applicant & owner:	FX Net Lease Holdings LLC	
Tax Map No(s):	6.00-1-62.100	
Brief Description:	Subdivision of 5.7 acre Wendy's parcel into 1.76 acre lot for existing restaurant and 3.87 acre development site at 7473 SR 96 southwest of its intersection with CR 42/Main Street Fishers in the Town of Victor. https://ontariocountyny.gov/DocumentCenter/View/31777/216-2021-subdivision-plan	

The lot for the existing 3,848 SF restaurant will conform to lot area, setback, greenspace, building coverage, and parking requirements. The 2 existing ponds along CR 42 and along the access drive to the use on the corner, the SR 96 frontage south of Wendy's, and the land behind Wendy's will be included in the future development lot. The existing lot has access and drainage easements with adjacent lots and the proposed subdivision will include access and drainage easements between the 2 created lots.

Comments

1. The existing access and drainage easements with adjacent properties may need to be updated to include both created parcels.
2. Existing and proposed drainage and access easements should be accompanied by maintenance agreements.
3. The subdivision plan notes indicate land banked parking for Wendy's but the location is not shown.

Board Motion: To retain referrals 215-2021, 216-2021, 217-2021, 221-2021, and 225-2021 as class 1s and return them to the local board with comments.

Motion made by: Paul Passavant **Seconded by:** Steve Groet

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

217 - 2021	Town of Canandaigua Planning Board	Class: 1
Referral Type:	Site Plan	
Applicant:	Marks Engineering	
Property Owner:	Finger Lakes Radio Group	
Tax Map No(s):	84.00-1-22.000	
Brief Description:	Site plan for 5,000 SF accessory storage building at Handyman Services 3060 CR 10 north of SR 5/US 20 in the Town of Canandaigua. https://ontariocountyny.gov/DocumentCenter/View/31779/217-2021-aerial https://ontariocountyny.gov/DocumentCenter/View/31778/217-2021-1-page-site-plan-County-Road-10-3060-2021-10-13-	

Existing primary use is a 1,791 SF building housing the business office of Handyman Services. Other site modifications include removal of existing septic system and replacement with structural fill under building, removal of stone parking area and installation of asphalt driveway connecting to Creekview Apartments, a curtain drain along the south side of the proposed building, a grass swale stormwater treatment and retention area along the east end of the building area, and a berm at the southeast corner of the building. Area of disturbance is approximately 23,600 SF. The accessory storage building will house the businesses 9 trucks, 6 trailers, and landscaping and mowing equipment.

The Town of Canandaigua code does not allow outdoor storage of construction equipment, materials, or debris nor fabrication and painting in the Community Commercial zoning district.

This project was previously reviewed as referral 21-2020 in February 2020. At that time, the CLCSD had not accepted dedication of sewers in this area and was not able to provide a sewer connection.

Comment

1. OnCor suggests the existing fence may be partially located on the adjacent property. The site plan details show a stockade fence detail. Any existing and proposed fencing should be shown on the site plan.

CLCSD Comment Plans are in our office for review and comment. Permit required for connection.

Board Motion: To retain referrals 215-2021, 216-2021, 217-2021, 221-2021, and 225-2021 as class 1s and return them to the local board with comments.

Motion made by: Paul Passavant **Seconded by:** Steve Groet

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

218 - 2021	Town of Farmington Planning Board	Class: AR 1
Referral Type:	Subdivision	
Applicant & owner:	Merlin Estate, Vivian J.	
Tax Map No(s):	18.00-2-8.000	
Brief Description:	Subdivision of a 35 acre parcel into a 2 acre lot for existing farmstead and three 10-12 acre vacant lots on the south side of Rushmore Road in the Town of Farmington. https://ontariocountyny.gov/DocumentCenter/View/31780/218-2021-aerial https://ontariocountyny.gov/DocumentCenter/View/31781/218-2021-revised-subdivision	

Nearly all land in this quadrant of the Town of Farmington is in the OC Consolidated Agricultural District 1. The property is not constrained by wetlands or floodplains. There is a stream and pond on proposed lot 3 near the lot 4 boundary. There appears to be a drumlin with side slopes of 16 to 30 and 31 to 60 percent that straddles the proposed boundary line between lots 2 and 3.

Ontario Fine Sandy Loam 25-35% slope 9.4 acres

Not prime farmland

Permeability: moderately high **Erodibility:** medium

Hydrological Group C **Not Hydric**

Ontario Loam 3 - 8 % slope 7.7 acres

Prime Farmland

Permeability: moderately high **Erodibility:** medium

Hydrological Group C **Not Hydric**

Palmyra gravelly loam 3 - 8 % slope 4.3 acres

Prime Farmland

Permeability: high **Erodibility:** medium

Hydrological Group B **Not Hydric**

These soils are very or somewhat limited for development of septic systems and the Palmyra soils are somewhat limited for development of homes with basements.

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.
8. It is the position of this Board that properly designed residential subdivision under five lots have little countywide or intermunicipal impact.

Final Recommendation: The CPB will make no formal recommendation to deny or approve single family residential subdivisions under five lots.

Comments

1. The applicant and referring agency should ensure that the sight distances for any future driveways comply with standards established by the American Association of State Highway and Transportation Officials (AASHTO).
2. The referring agency is also encouraged to ensure that any required soil percolation tests are completed and considered during subdivision review.
3. The applicant and referring agency are also strongly encouraged to involve 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 Ontario County Soil and Water Conservation District as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures.
5. A 100' to 200' vegetative buffer is desirable around residential uses in agricultural areas to protect the viability of agricultural lands and their operators by reducing complaints and conflicts related to noise, odors, and soil wind drift. Consider requiring retention of vegetative buffer to agricultural lands on the west side of Lot 2, the east side of Lot 4 and the south side of lots 2,3 and 4.
6. It appears the leased agricultural field is largely on proposed lot 3. Care should be taken to include access for agricultural equipment on lot 3 to facilitate continued agricultural use of this field if desired by future owner.

219 - 2021	Town of Geneva Zoning Board of Appeals	Class: Exempt
Referral Type:	Area Variance	
Applicant & owner:	DeFelice, Ralph	
Tax Map No(s):	161.20-1-5.100	
Brief Description:	Area variance for extension of 6' fence into the front yard of a home at 5283 North Kashong Point in the Town of Geneva to provide security and privacy.	

220 - 2021	Town of Geneva Planning Board	Class: 1
Referral Type:	Subdivision	
Applicant & owner:	Iverson, Chris	
Representative:	BME Liftbridge Lane	
Tax Map No(s):	119.00-1-69.110	
Brief Description:	Re-subdivision of phase 4 of Orchard Brook Park off Snell Road in the Town of Geneva. The proposed subdivision would increase the number of lots from 30 to 40 while retaining previously proposed road alignment and stormwater management facility location. https://ontariocountyny.gov/DocumentCenter/View/31862/220-2021-AERIAL https://ontariocountyny.gov/DocumentCenter/View/31793/220-2021-subdivision	

A subdivision plat showing 30 lots was approved in 1998 and 12 of the proposed lots were filed with the Ontario County Clerk. The applicant's holdings encompass 35.2 acres. Phase 4 encompasses 28.1 acres. The proposed subdivision would disturb 19.2 acres.

The proposed subdivision lots are 100' wide with over 13,700 SF when a minimum of 90' width and 10,000 SF is required. The subdivision will be serviced by public water and sewer infrastructure. The proposed stormwater management facility is designed to meet current NYSDEC and Town of Geneva requirements including 700' of French drain in a drainage easement within the disturbed area of the lots along the western and northern boundary and 330' of French drain in a drainage easement along the disturbed area of lots on the south side of Orchard Park Drive. Proposed slopes in this area are 3:1. These facilities and other piping connect to a stormwater management facility on an applicant owned lot to the east of the proposed development. The development is expected to retain the trees along the rear lot lines of homes on the east-west section of Apple Lane and Orchard Park Drive.

The landscape and lighting plan indicate 2 streetlights lights comparable to those in earlier phases at intersection and landscaping around the stormwater management facility.

Comments

1. Did the Town of Geneva accept for dedication the area identified as parkland on the approved 1998 subdivision? If yes, private stormwater management facilities may not be allowed.
2. Will the project be phased?
3. What is the acreage of trees to remain along the rear lot lines of homes on the east-west section of Apple Lane and Orchard Park Drive.
4. Will any sidewalks or walking trails be provided?
5. Who will be responsible for maintaining the stormwater management facilities? Will there be access easements to town for regular or emergency maintenance?
6. Are street light fixtures dark sky compliant white lights? What is the height of the lights?
7. Will any street trees be planted?
8. Will any of the units be affordable below market rate units?
9. Will any of the units be accessible, visitable, or otherwise designed to accommodate older adults and people with disabilities?
10. The municipal engineer should review stormwater calculations to ensure stormwater management facilities are appropriately sized to retain and treat stormwater as required.

OCSWCD Comments

1. Concrete truck washout detail not provided.
2. Wetland along White Springs Brook north of proposed stormwater management facility and on eastern property boundary. Consider additional fencing and signage to delineate.
3. Additional silt fence needed on western side of project site.
4. Will all homes be constructed at one time? If project will be phased, consider O&M schedule for stormwater infrastructure on those lots that will remain undeveloped.

CRC Comments

1. The applicant representative provided the following additional information:
 - a. The proposed stormwater management facility/parkland will be dedicated to the T. of Geneva following completion. Proposed dedication of the 7 acre parcel including the stormwater management facility and lands fronting on Snell Road should be noted on the subdivision.
 - b. The rough grading will likely be completed at one time, while the installation of infrastructure may occur in phases depending on the pace of lot sales.
 - c. The grading will leave undisturbed approximately 9 acres of woods including approximately 1 acre in the center of the site and additional area at the site perimeter, though homeowners may choose to remove additional trees.
 - d. The T. Geneva code does not require and the applicant is not proposing sidewalks or street trees.

- e. The developer is offering lots for sale and owners will be contracting with the builder of their choice. Therefore, no information is available on cost or design features, though it is expected that like most new construction in the area, these homes will cost \$250,000 to \$300,000.

Board Motion: To retain referral 220-2021 as a class 1 and return it to the local board with comments.

Motion made by: Steve Groet **Seconded by:** Mike Woodruff

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

221 - 2021	Town of Victor Zoning Board of Appeals	Class: 1
Referral Type:	Area Variance	
Applicant:	Boglioli Esq, James A.	
Property Owner:	Patel, Dilip	
Tax Map No(s):	6.00-1-64.100, 6.00-1-62.100	
Brief Description:	Area variance related to development of Delta Sonic Car Wash proposed for lot created in referral 216-2021 and subject to site plan and special use permit in referral 226-2021 and 226.1-2021 at 7474 SR 96 in the Town of Victor. Variance to allow operation of motor vehicle repair station on Sunday and until 9 pm on weeknights. https://ontariocountyny.gov/DocumentCenter/View/31784/221-2021-22-Z-2021-Delta-Sonic-aerial	

The applicant provided information of the operating hours of other nearby fast food and car wash businesses. The lot does not border residential uses or districts.

Board Motion: To retain referrals 215-2021, 216-2021, 217-2021, 221-2021, and 225-2021 as class 1s and return them to the local board with comments.

Motion made by: Paul Passavant **Seconded by:** Steve Groet

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

222 - 2021	Village of Clifton Springs Village Board	Class: 2
Referral Type:	Text Amendment	
Applicant:	Village of Clifton Springs	
Brief Description:	Local law to allow short-term rentals as special permit uses in the 3 residential districts in the Village of Clifton Springs subject to safety and insurance requirements, registration, and other standards. https://ontariocountyny.gov/DocumentCenter/View/31785/222-2021-clifton-str-zoning-law	

The proposed regulations establish a permit system good for 3 year with annual registration. The annual registration by December 1 requires proof of payment of any required occupancy tax, fire safety inspection within the last 12 months, and updating owner/operator contact information.

If complaint or CEO provides written documentation of permit violation, the Village Board is responsible for suspending or revoking short-term rental special use permit. Village Board also responsible for denial of annual registration if warranted.

Comments

1. Zoning permits run with the land/use. In order to be able to terminate a short-term rental permit upon change of ownership and to regulate occupancy on the basis of tenure, the short term regulations should be enacted based on the municipality's general home rule/regulatory authority to regulate businesses and located outside the zoning chapter of the code.
 - a. A long-established tenant of zoning law is that the regulations fail (meaning they are struck down in court if challenged) if they are based on ownership. In short, under the zoning authority granted municipalities in New York State, municipalities can regulate the type of land uses, not ownership. For example, a zoning district can be limited to single family detached residences. A zoning ordinance or local law would fail if it specified that a zoning district was limited to owner-occupied single family detached residences, as the

single family detached residences size, setbacks, use as a place of dwelling, etc. have nothing to do with whether the occupant(s) own the property or are renting it.

- b. The proposed local law amending the Village of Clifton Springs would, in my opinion, fail if challenged on the above stated grounds as it does nothing to define the short-term rental use from any other land use such as single family, two family, and multi-family residential uses. All of the latter are land uses clearly defined in the existing zoning code which can be legally rented out for use by their owners. The sole purpose of the proposed local law amending zoning is to regulate the term of the rental, which is not a land use having any definable physical characteristics, and limiting occupancy of such units. Limiting the maximum occupancy based on the duration of the rental period is, in my opinion, a fatal flaw since no such occupancy limits are set for owner occupied or longer-term rentals. The same argument could be made for the house number posting, the emergency evacuation procedures, fire extinguishers, electrical system inspections, garbage removal, etc.
- c. If these are the regulations the Village desires to implement, the village should consider:
 - i. rewriting this local law as a stand-alone local law or new chapter of their municipal code based on the municipality’s general home rule/regulatory authority as an action to regulate businesses in their jurisdiction. Municipalities have broad capability to regulate businesses and set such occupancy limits outside of their zoning authority, including the granting of business licenses for such uses. The revised local law should include a definition of the business term “short-term rental”, delegation to Village Board and/or Planning Board review/revocation of permits, spell out enforcement procedures, and reference Planning Board site plan review, if desired. The proposed chapter may also be included in the general reference header of the zoning chapter.
 - ii. If for some reason the village is adamant about putting these regulations in their zoning local law, I would suggest amending the local law to:
 - 1. Add an authority section that clearly relies on the village’s authority to regulate businesses (check with their Village Attorney) and municipal home rule and not on the zoning enabling statutes in village law.
 - 2. In each section of the local law to be inserted into the zoning code, explain the authority for instituting different standards for properties subject to short term rentals. For example, explain where the authority is other than zoning enabling statutes for establishing occupancy standards for dwellings occupied by short term renters.
- 2. If the Village Board has previously delegated special use permit authority without limitation to the Planning Board, the Village Board must amend or rescind and re-adopt a local law retaining authority to revoke short term rental special use permit.
- 3. Section 2 allows short term rentals in Low Density, Village and Multi-family districts; Section 4 indicates they are permitted in any building type in commercial zoning districts. This conflicting language should be clarified.
- 4. Section 4 120-40.28 A 1. A should use the term allowed, not permitted.

Board Motion: To retain referral 222 -2021 as a class 2 and return it to the local board with a recommendation of approval with comments. **Motion made by:** Paul Passavant **Seconded by:** Mike Woodruff
Vote: 11 in favor, 2 opposed, 0 abstentions **Motion carried.**

223 - 2021	Town of Manchester Planning Board	Class: AR 1
Referral Type:	Sign Permit	
Applicant:	The Church of Jesus Christs of the Latte	

Property Owner:	Hill Cumorah
Representative:	Jakse-Barone, Sonia
Tax Map No(s):	11.00-1-17.100
Brief Description:	Proposed 67 SF sign at Hill Cumorah Visitor Center 603 SR 21 in the Town of Manchester.

Town code allows maximum of 100 SF of signage based on 10% of 3,750 structure facing the street. Proposed sign is 90 SF. Submitted materials indicate proposed 12" letters are visible from 300', easily readable at a distance of 120' and would have maximum impact at distance of 60'. Sign proposed to be located 30' from the ROW.

On November 9, 2021 the applicant submitted a revised proposed sign 9' tall with 67 SF.

Policy AR-7B: Signage complying with local limits on size and number

The County Planning Board has long taken an interest in supporting local efforts to limit excessive signage. The Board has identified SR 96 as a primary travel corridor for tourists visiting Ontario County. The intent is to protect the character of development along primary travel corridors by encouraging local boards to adhere to their adopted laws as much as possible.

Final Classification: Class 1

Findings

1. Signs that comply with local dimensional requirements will have the minimal practical level of impact on community character.

Final Recommendation: The CPB will make no formal recommendation to deny or approve applications for signs that comply with local limits on size and or number.

224 - 2021	Town of Manchester Planning Board	Class: 1
Referral Type:	Site Plan	
Applicant:	Steven Gardner	
Tax Map No(s):	20.00-1-47.111	
Brief Description:	Site plan, use variance, and sign permit for 2,400 SF building on 22 acre lot for auto, truck, ATV sales at 1022 SR 21 in the Town of Manchester. https://ontariocountyny.gov/DocumentCenter/View/31812/224-2021-aerial	

The proposed auto sales display area would be adjacent to an existing building located approximately 430' west of SR 21 north of Hacket Road and the Thruway. The frontage is wooded and the building and proposed display area is likely not visible from SR 21. The proposed use would have a 10' high, 24 SF sign on SR 21 at the existing unpaved access point. The applicant owns a total of 74 contiguous acres.

Comments

1. The site plan should identify the access point and identify size and location of display area and indicate that no site disturbance is proposed.

Board Motion: To return referrals 224-2021 and 224.1 -2021 as incomplete and return them to the local board.

Motion made by: Mike Woodruff **Seconded by:** AJ Magnan

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

224.1 - 2021	Town of Manchester Planning Board	Class: 1
Referral Type:	Sign Permit	
Applicant:	Steven Gardner	
Tax Map No(s):	20.00-1-47.111	
Brief Description:	Site plan, use variance, and sign permit for 2,400 SF building on 22 acre lot for auto, truck, ATV sales at 1022 SR 21 in the Town of Manchester.	

See information at 224-2021.

224.2 - 2021	Town of Manchester Zoning Board of Appeals	Class: 2
Referral Type:	Use Variance	
Applicant:	Steven Gardner	
Tax Map No(s):	20.00-1-47.111	
Brief Description:	Site plan, use variance, and sign permit for 2,400 SF building on 22 acre lot for auto, truck, ATV sales at 1022 SR 21 in the Town of Manchester.	

The provided financial information relates to the economic difficulties of the applicant and does not document economic hardship from inability to obtain a reasonable return on investment from uses permitted on the lot with Agricultural zoning including residence/residential development, farm including forestry, and allowed special permit uses or sale of lot.

Findings: 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. The provided financial information does not document economic hardship from inability to obtain a reasonable return on investment from uses permitted on the lot.

Board Motion: To retain referral 224.2-2021 as a class 2 and return it to the local board with a recommendation of denial. **Motion made by:** Len Wildman **Seconded by:** Paul Passavant
Vote: 13 in favor, 0 opposed, 0 abstentions **Motion carried.**

225 - 2021	Town of Hopewell Planning Board	Class: 1
Referral Type:	Site Plan	
Applicant:	Brightman, Carter	
Property Owner:	RTG Trailers LLC	
Representative:	Grove, William	
Tax Map No(s):	99.00-2-55.100	
Brief Description:	Site plan for change of use of 7 acre parcel with 4,285 SF building to portable restroom business at 3854 SR 5/US 20 at Freshour Road in the Town of Hopewell. https://ontariocountyny.gov/DocumentCenter/View/31787/225-2021-aerial https://ontariocountyny.gov/DocumentCenter/View/31788/225-2021-site-plan	

Property is located opposite the Finger Lakes Livestock Exchange.

Comments

- Given existing available access point off Freshour Road, referring body should consider the opportunity to eliminate access connection to SR 5/US 20.

Board Motion: To retain referrals 215-2021, 216-2021, 217-2021, 221-2021, and 225-2021 as class 1s and return them to the local board with comments.

Motion made by: Paul Passavant **Seconded by:** Steve Groet

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

226 - 2021	Town of Victor Planning Board	Class: 1 Late Referral
Referral Type:	Area Variance	
Applicant:	Delta Sonic Car Wash Systems	
Property Owner:	Patel, Dilip	
Tax Map No(s):	6.00-1-64.100, 6.00-1-62.100	
Brief Description:	Site plan and special use permit for Delta Sonic Car Wash on Royal Inn site and lot created in referral 216-2021. Site at 7474 SR 96 in the Town of Victor and subject to variance in referral 221-2021. https://ontariocountyny.gov/DocumentCenter/View/31789/226-2021-aerial https://ontariocountyny.gov/DocumentCenter/View/31846/226-2021-2021-10-18-1-page-site-Planspdf https://ontariocountyny.gov/DocumentCenter/View/31816/226-2021-10-18-Traffic-Impact-Study	

Site plan shows 13,914 Sf interior detail building along SR 96, a 10,257 SF exterior car wash building with a 3,185 SF prep hut located behind the existing Taco Bell, a 13,164 SF indoor vacuum building and outdoor vacuum area located behind the existing Wendy's, and related pavement, drainage, landscaping and lighting. The project is subject to the Route 96/251 Overlay district requirements and as a car wash requires a special use permit. The car wash will meet special use permit requirements related to separation from residential uses, traffic, appearance in harmony with surrounding areas, and provisions for oil and grit separator connected to building floor drains and proper disposal of degreasing solvents and waste oil even though the use is not proposed to provide oil change service. The use is not proposed to include sale of gasoline or a minimart.

The site plan indicates 4 stacking lanes with a capacity of 71 vehicles for the single lane wash building. Two lanes access a pay station, and 2 lanes are for express customers. There are 2 stacking lanes with a capacity of 26 vehicles for the detail building. The site plan shows 43 parking spaces and 1 dumpster west of the car wash building, but no marked pedestrian connections for employees to walk safely from parking/dumpster area to other buildings. The 7 drying stations are an estimated 10-12' from the through driveway connecting SR 96 and CR 42.

The landscaping plan does not show any frontage landscaping along SR 96 or CR 42. The landscape plan shows plantings along the northern side of the driveway off SR 96, at the entrance to the wash stacking lanes, in the bioretention area between the stacking lanes and the wash building, and along the eastern side of the wash building. The site plan indicates retaining walls along the Wendy's driveway in front of the entrance to the detail building, at the west end of the detail building sidewalk, and at the southern end of the site adjacent to the Best Western Hotel. There is an existing stormwater management pond at the north end of the site adjacent to CR 42 and the existing Wendy's driveway. No detail is provided about connection of the site to this facility or sufficiency of proposed bio-retention area.

The proposed project will include the demolition of the existing Royal Inn buildings and will use existing access points to provide access from both CR 42 and SR 96. Both access points will be modified to include 2 exit lanes. The Traffic Impact Study (TIS) estimates 30 percent of pm peak hour customers will be vehicles already traveling in the corridor. The TIS also indicates the intersection of SR 96 with CR 42 (Main Street Fishers)/Rowley Road has a crash rate of 1.07 per million entering vehicles based on crash data from Feb 1, 2018 to January 31, 2021. This crash rate is higher than the .54 average crash rate per million entering vehicles on similar roads statewide. Most crashes were rear end collisions involving property damage only as is typical in a moderate to heavily trafficked signalized corridor. The crash analysis did not identify any safety deficiencies that contributed to the higher than average crash rate, but noted that improvement in clearance intervals often reduces the number of rear end crashes.

The TIS concludes based on field observations, capacity analysis, and gap study that gaps are sufficient to accommodate site generated traffic. The turning movement counts were collected on July 7, 8, 10, 15, 17, and 20, and field observations and gap analysis were conducted on Tues. August 10, Thurs August 12, and Saturday August 14, 2021. In light of business restrictions due to Covid -19, the traffic consultant reviewed historical NYSDOT traffic volumes on SR 96 and CR 42 and found 2021 volumes were generally higher for the pm peak hour and determined no adjustment was needed.

In accordance with Institute of Transportation Engineers guidelines, site trip generation may be based on local trip generation for comparable uses. In this case, trip generation for the proposed project was derived from a similar site on West Henrietta Road between Brighton-Henrietta Townline Road and Jefferson Road. This comparable car wash and detailing location also has a gas station and convenience store which the proposed project does not.

The TIS notes that during both weekday pm and Saturday peak hours, intersection traffic will block both driveways and that the northbound left turning movement exiting the site to CR 42/Main Street Fishers will operate at LOS F with a delay of 53 seconds. The TIS recommends a 1 second signal timing adjustment from northbound green to southbound green at the SR 96/CR 42 intersection to mitigate the LOS F for the south bound u-turn/left movement to LOS E with a 79 second delay, up from 70 seconds under current conditions.

The TIS predicts the volume to capacity (V/C) ratio of the SR 96/CR 42 signalized intersection would increase from an adequate .85 to .87 by 2022 based on 2 percent annual increase in background traffic and that site generated traffic would further increase the V/C ratio to .91 for the weekday pm peak.

Comments

1. The referring body should consider whether it is desirable for the overall operation of the road network to interconnect this site with the Best Western Hotel and Omni-Tech Place and what site modifications would be necessary in light of higher traffic volumes.

OCDPW Comments

1. Comment from review by OC traffic consultant won't be available until December 2, 2021.

OCSWCD Comments

1. If mulching during winter months rate is doubled from 2 tons per acre to 4 tons per acre.
2. Consider no P fertilizer unless soil test indicate a need.
3. Additional detail on decommissioning of existing septic system needed. Will current tank and lines be removed?
4. See Blue Book for current concrete truck washout specifications.
5. Concrete truck washout location not indicated on plans
6. Soil stockpile locations not indicated on plans
7. Current stormwater system will likely see increased volumes during peak storm events due to increased impermeable surface which has the potential to impact the stormwater systems of other properties downstream.

Board Motion: To **not** accept referral 226-2021 and 226.1-2021 as late referrals due to lack of complete reviewer comments.

Motion made by: Steve High **Seconded by:** Mike Woodruff

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

226.1 - 2021	Town of Victor Planning Board	Class: 1 Late Referral
Referral Type:	Special Use Permit	
Applicant:	Delta Sonic Car Wash Systems	
Property Owner:	Patel, Dilip	
Tax Map No(s):	6.00-1-64.100, 6.00-1-62.100	
Brief Description:	Site plan and special use permit for Delta Sonic Car Wash on Royal Inn site and lot created in referral 216-2021. Site at 7474 SR 96 in the Town of Victor and subject to variance in referral 221-2021 .	

See information at 226-2021.

227- 2021	Town of Victor Town Board	Class: 2
Referral Type:	Map Amendment	
Applicant:	Town of Victor	
Brief Description:	Map and text amendment to add a Cannabis Retail Dispensary Overlay district to the Town of Victor zoning code. https://ontariocountyny.gov/DocumentCenter/View/31790/227-2021	

The Cannabis Retail Dispensary Overlay district encompasses a portion of the Commercial zoning district including Eastview Mall and additional lots on SR 96, Eastview Mall Drive, Cobblestone Court, High Street and Commerce Drive as listed in the local law. The regulations include allowable hours of operation, minimum 1,500' spacing, Town Board approval, and requirements for submission of NYS license application as part of the application process and receipt of a NYS license prior to operation.

Comments

1. The Cannabis Law refers to a local municipality's ability to regulate the time, place, and manner of sales, however such a local law would appropriately be adopted under the Town's zoning authority.

2. The referring body may want to require applicants to have applied for a NYS license before submitting an application to the Town Board.
3. Is the referring body considering establishing a maximum number of such uses allowed in the town?
4. The proposed 1,500' spacing methodology would likely mean 1 cannabis retail dispensary on an outparcel at Eastview Mall or 1 in other areas included in the overlay. A limit on the number of such uses in conjunction with a requirement that an applicant has submitted a NYS license application may result in a smoother approval process.
5. Is the referring body also considering regulations on public consumption? If so, rules must be consistent with smoking rules.
6. Is the referring body considering limiting uses to existing buildings?

Board Motion: To retain referral 227-2021 and 227.1-2021 as class 2s and return them to the local board with comments and a recommendation of approval. **Motion made by:** Mike Woodruff **Seconded by:** AJ Magnan
Vote: 13 in favor, 0 opposed, 0 abstentions **Motion carried.**

227.1 - 2021	Town of Victor Town Board	Class: 2
Referral Type:	Text Amendment	
Applicant:	Town of Victor	
Brief Description:	Map and text amendment to add a Cannabis Retail Dispensary Overlay district to the Town of Victor zoning code.	

See information at 227-2021.

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: l, (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 1

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)

Board Changes

Patti Wirth not seeking re-appointment when term expires on December 1, 2021

Christin Smith, resign due to job change

Bill Namestnik, resigned to focus on new position as Supervisor of the T. Hopewell

Pending appointments: Marion Mueller as T. Naples rep

John Weidenborner, CEO as T. Farmington rep

Current alternative member Doug Dello Stritto to be appointed as C. Canandaigua rep

Clearing House reviews – None

Upcoming Training Opportunities

November 13, 2021 9:00 AM – 1:00 PM Association of Towns Planning & Zoning School

To register: https://members.nytowns.org/Towns/Common/2021_Planning_and_Zoning_School.aspx

Topics: Short Term Rentals& Tips for Regulating Telecommunications Facilities

November 15, 2021 6:00 PM – 8:15 PM Washington County Planning & Zoning Webinar

To register: <https://meetny.webex.com/meetny/k2/j.php?MTID=t54c69f42068a ddc8c42ae7d40ebdd51>

Topics: County Referral & Public Meetings & Hearings

December 7, 2021 6:00 PM – 7:30 PM Winter Webinar Series Planning & Zoning Webinar

To register: <https://meetny.webex.com/meetny/k2/j.php?MTID=tc5152b7a4f4a ade5b33069e9f3fcd0e>

Minute Taking & Other Essential Duties for Board Clerks and Secretaries

December 14, 2021 6:00 PM – 7:30 PM Winter Webinar Series Planning & Zoning Webinar Course:

To register: <https://meetny.webex.com/meetny/k2/j.php?MTID=t17e80dac6279 68676519864ccd9453e9>

Enforcement of Zoning and Other Local Laws

December 23, 2021 6:00 to 7:00 pm Municipal Bootcamp: (MRB & Hancock Eatabrook)

ALL THE RIGHT FORMS IN ALL THE RIGHT PLACES The Role of Process and Administration in Planning and Zoning

Action <https://register.gotowebinar.com/register/5555904142099366158>

January 4, 2022 6:00 PM – 8:00 PM Winter Webinar Series Planning & Zoning Webinar Course:

To register: <https://meetny.webex.com/meetny/k2/j.php?MTID=tdfee45722b91 07691a70b2c6bd345967>

Planning Board Overview

Other info to share – SWCD \$50,000 grant from Forest Service Great Lakes Restoration Initiative to address Hemlock Woolly Adelgid infestations at Harriet Hollister Spencer, Briggs Gully, Grimes Glen & other tributaries of Hemlock and Canandaigua Lake.

Privilege of the Floor None

Adjournment: Being no further business for discussion, Chair Wildman requested a motion to adjourn 11/10//21 County Planning Board meeting. **Motion to adjourn made by** Glen Wilkes **seconded by** Mike Woodruff **Motion carried.** November 10, 2021 CPB meeting adjourned at 8:45 PM.