

**YATES COUNTY PLANNING BOARD
MEETING
JANUARY 28, 2010**

PRESENT: Kevin North, Alan Snyder, Ron Rubin, Jerry Stape, John Sawers, Lane Clute, Chuck Mitchell, and Marilyn Scharf.

Others present: Donald House, Yates County Legislator; Josef Brodmann; Daniel and Melissa Gurba; Steven Smith, for James Smith; Jon Bagley; Daniel and Elizabeth Hoover; Amanda Grover; Sarah Purdy, County Administrator; Shawna Bonshak, County Planner, and Karen Phillips, Recording Secretary.

Excused: Dave Christensen, Judy Wiltberger, and Sandy King.

The meeting was called to order at 7:00 p.m.

APPROVAL OF MINUTES:

Mr. Mitchell made a motion to approve the minutes of the December 10th meeting. Mr. Stape seconded the motion.

Mr. Stape mentioned the fact that he believes the wording for county impacts should be changed, because everything impacts the county. Mrs. Bonshak suggested that we discuss this at the organizational meeting next month. Mr. North noted that this is a very valid point.

All in favor of the motion.

GML 239 REFERRALS

2010-1 – Josef Brodmann, 184 R. West Lake Road, Penn Yan, Town of Jerusalem. Rear-yard Variance for the placement of a swimming pool.

Mr. Brodmann noted they have a backyard between Lower West Lake Road and 54A and because they are within 500 ft. of 54A that is why he is here. The back yard is only 53 ft. deep and behind them are undeveloped woods. To put in a pool, the Town of Jerusalem wants a 30 ft. setback, so even if they went with an 18 ft. pool it would only be 3-4 ft. off of the house, so they are asking to put the pool 10 ft. off from their rear lot line. The front of the house faces the lake and the pool would be in the back yard which is between their house and Rt. 54A. They are about 250 ft. away from Rte. 54A, separated by an undeveloped wooded lot.

Mr. Rubin asked if a site plan is needed. Mrs. Bonshak indicated that one is not needed. A college from Illinois owns the property behind him, which was donated to them. It is a lot that is a little over ½ acre. It is technically buildable, but there's a lot of logistics for anyone putting anything in there. It is

incredibly steep and all of the utilities are on West Lake Road. It would be of great expense to actually put a home on that lot. The chance of someone developing on it is pretty minimal.

Mr. Mitchell made a motion to approve this application. Mr. Snyder seconded the motion. All in favor.

2010-2 – Daniel and Melissa Gurba, 137 Benham Street, Village of Penn Yan. Site plan approval for exterior changes associated with a redemption center business.

Melissa Gurba stated that she and her husband currently own a redemption center on Commercial Ave which they have owned for 3 years and they are considerably growing and looking for more space. They found a location on Benham Street, which was the old winery building. It would give them plenty of room and ample parking. They are not planning on changing a whole lot; they are planning to petition off a small portion inside to use for their business and storage. The only exterior changes that need to be made are a handicap ramp and outside lighting. Besides that, they don't plan on making any major changes other than relocating their business to that location.

Mr. Clute asked why this was sent to us, because it is a commercial piece of property; wouldn't it be acceptable business there anyway? Shawna said this is a new site plan, so it would still need to come before us.

Fran Dumas asked if they are subject to the village's 10% green space requirement. Melissa Gurba said that is well met.

The hours right now are Tuesdays through Fridays from 3:00 p.m. – 7:30 p.m. and on Saturdays from 7:00 a.m. until 3:00 p.m., but they would like to change the hours from 9:00 a.m. – 7:00 p.m. Lights in the parking lot are in the plans. Mr. Stape said that would be the only concern he has, as long as the lights do not bother the neighbors, with the lighting reflecting out onto the neighbors in the evening. Mrs. Gurba said there are street lights out by the driveway anyhow, so it shouldn't be too much of an added impact, as its pretty much to just light the parking lot right in front of the building. There's no reason for lighting the parking lot over night. They will be turned off at night. Mr. Rubin stated that the building sits quite a ways back anyhow.

Mr. Stape made a motion to approve this application. Mr. Snyder seconded the motion. All in favor.

2010-3 – Pat Laumeier and Robert Plattner, 5539 State Route 14A, Town of Starkey. Modification of an existing special use permit associated with the sale of crafts.

Mrs. Bonshak noted that we have had this application before back in 2008. They were going to build a building and they were granted a special use permit to build a building for their crafts. They now want to use an existing building. They had a shed and they are now using the basement. This basically is just a modification of their second modification. They do have a nice drive-way set up off from Rte. 14A. Mr. Mitchell said he believes that if they have a special use permit already what difference does it make

to the town as to where they set this up. Mrs. Bonshak stated that apparently the Code Enforcement Officer felt they needed to modify this because it was supposed to be in the one building and it moved to the existing building. Originally, the first building didn't meet code, and from what this application states, this does meet code. This would appear to be a better alternative.

Mr. Mitchell made a motion to approve this application. Mr. Rubin seconded the motion. All in favor.

2010-4 – James Smith, 118/120 East Lake Road, Town of Middlesex. Minor subdivision approval for the reconfiguration of property lines and creation of two new parcels.

Steven Smith, brother of Jim Smith, was here to represent the family who is currently in Connecticut. They were approved by the Town Board of Middlesex sometime before Christmas; they have two parcels on Canandaigua Lake and they are changing the borders for the two parcels to make one small one and one large one for the purpose of one brother developing, and the other not developing. Steve's brother, Tim, needs more room than Steve does in order to develop, which is why Steve is going with the smaller parcel and James is going within the larger parcel. This is all within the family. Jim is hoping to retire, but is not 100% sure that he will build a retirement home there, but he is 75 – 80% sure. They currently have two cabins on the property and what this does is leaves them both with what they want.

Mr. Mitchell made a motion to approve this application. Mr. Sawers seconded the motion. All in favor.

2010-5 – Floyd and Sylvia Grover, 59 Gilbert Street, Village of Rushville; Special Use Permit to allow farm animals, horses, beef cattle and alpacas in a residential zone.

Amanda Grover, Real Estate Broker, represented Floyd and Sylvia. Amanda stated that Floyd and Sylvia, her husband's grand-parents, are currently in Florida and couldn't make it. They are not the ones interested in having farm animals or livestock on the property, but given that it has been rather difficult to sell the property, they are trying to keep options open. A number of people interested were interested in having alpacas or cattle, so they decided to pursue these hoops so that its one last thing that the prospective buyer has to do in order to buy the property. This is one of the larger parcels in the Village of Rushville and it's the last property before the Village line ends. It's literally the last parcel in Potter. It's on the edge of town and there are 16 acres. John Sawers noted that it is in the use class that is acceptable, but it's only acceptable for a horse or a pony in the Village of Rushville, so it has to go on from there to the Zoning Board of Appeals and be approved. The Village is trying to keep the animal use down as much as they can because they are redoing the zoning book now so that they can get some of the R2 and R1 districts out so that not everyone in town can have horses, pigs and cows. It is a great area for what they are talking about; it's long and wooded in the back. Mr. Stape asked if it would have an impact on the Town, as far as the people close by. Mr. Sawers said no. Amanda said it is basically an all-open field. Mr. Rubin asked about maximum number of animals. Mr. Sawers said the way it is written now is for one horse or one pony. Mr. Rubin asked if this were approved if there would be a restriction by the Town as to the number they could have. Mr. Sawers indicated that at this point he's not sure of that. Mr. North said they would have to do that by parcel. Mr. Bagley noted that the way it

is written, which was written in the 1960's, their zoning should have been updated a long time ago, so they are in the process of doing that. The parcel she is trying to sell would be favorable to have a few horses on it because it is big enough, but until the books are done where they can limit it, they don't have anything like that right now. He noted he received an e-mail from the ZBA today indicating that he had a bunch of questions regarding this particular application, such as where the animals would be stored and will there be trucks delivering the animals, etc. because they want to know who will have them there and what are they going to have. He said he'd like to help her make the property marketable, but even if Yates County approves it, he's not sure the ZBA will because they don't have the answers to the questions that they want. Amanda agreed that it's difficult. The price is about \$8,000 on this property and it's been on the market for over 6 months and they can't get the assessed value on it, so they are trying everything possible to make it a little more appealing to the prospective buyer. Mr. Sawers said it would have to go to a public hearing and the ZBA. Something like this could really upset the whole town. Mr. North said we should not make any type of ruling whatsoever until Rushville figures out what they want to do with it. There are way too many questions. This could be subdivided years down the road, but there will be animals on it. It's large enough of a parcel to put 15 milk cows on it. The use class for that property is okay for one horse, but you have to read it "excluding livestock production". It's a pretty broad scope that they have and it's never been challenged before.

Amanda asked if anyone else has 16 acres in the Village of Rushville. She then noted that there was a farm in the Village and they had livestock, but they were grandfathered in. Mr. Sawers said they have sheep. Mr. Bagley said he believes the zoning will help her. When they do finish the book, it will have the guidelines in it and they will know what their rules should be and what they want them to be. Amanda asked if it is something they are moving forward to. Mr. Sawers said that hasn't been discussed yet. They still need to have an open meeting. Amanda asked what the timeframe would be on that, and it was noted that it would be approximately 3 months, but it hasn't been set yet. Mr. Sawers said the ZBA has to have a public hearing in order to get that use approved.

Amanda then said it sounds like there will still be limitations and asked if she should just assume that in no point they will be in a situation where they are free to have alpacas, etc. without going through a variance. She said their whole goal was to not have the buyer take that extra step, because as soon as they hear that, they want to walk away. Mr. Sawers said no he couldn't promise that. Mr. Mitchell said this is a request for a special use, so they could grant the special use and put restrictions on it that they can't have more than so many alpacas, horses, etc. Mr. Sawers said she would just have to go through the normal procedures, but he's not sure how soon they could have the public hearing. Mr. Mitchell asked why this would need a special hearing. Mrs. Bonshak said it depends on the village and there is no reason why this Board cannot act on this tonight, if they feel comfortable with it.

Mr. Rubin made a motion to table this application for further information. Mr. Stape seconded the motion. Mr. Mitchell stated he doesn't agree and doesn't see why we can't approve it now. If the Village approves it, they can put the restrictions on it. Mr. Clute said it is just too open ended. He would much rather see it come back to us with the Board's restriction. Mr. Mitchell said he doesn't think this should be written into the law. Mr. Rubin said that if we're reviewing it, we would want to know what

those conditions are. Mr. Mitchell said it's not up to us; we could recommend. Mrs. Bonshak stated that they won't set the conditions until their meeting anyways. We could recommend that they consider putting in these conditions, but we can't put those conditions on it. Mr. Rubin said we could know what the conditions were if they put them on it. Mr. Mitchell said the conditions are going to happen through the approval of special use. Mr. Rubin said it goes to the Town for review and then comes to us. Mrs. Bonshak said it would go to the Town for the application, but it comes to us first before they act. They can't make a decision until they get the Planning Board's recommendation.

6 members were in favor of tabling this application. Mr. Mitchell disapproved and Mr. Sawers abstained from the deliberation and the vote.

2010-6 – Jon Bagley, 7 North Street, Village of Rushville. Use Variance for the conversion of an existing office into an apartment; a use not permitted in the C-1 zone.

Mr. Bagley stated the code enforcement officer said he should fill out both the use variance and the special use permit applications. He received an e-mail today from the Chairman of the Zoning Board of Appeals saying he didn't agree, in that he may not need the special use permit. The rear portion of the building being used as an apartment does not seem to fit as a Use Class 8 since it is not a rooming house. This is zoned C-1 and it probably needs to be withdrawn.

Mr. Bagley said he has a commercial building on Main Street in Rushville that was previously owned by Bruce Martin for 50 some years who had a dry goods store who sold rubber boots, hats and clothes, etc. and the whole bottom floor was a store and he resided upstairs for the last 51 years. He said he bought the building in between two other owners who made the back into offices. It is a nice office space – 1100 sq. ft. He noted he has tried to speak with different professional people about renting it. The problem is with the limited parking. There's room for 3 cars out back and there's on-street parking, as well as a garage out back. He then noted that he has 10 residential rentals right now and he has people that go to him frequently asking him for rentals; he would like to convert that into a rental on the back side. He said he has room for parking for a rental; there's a rental upstairs. The hard part he will have to deal with is going before the Village and proving his hardship for a change of use, which is one of the hardest to get. It's hard to attract people to rent it because of the cost of heat, etc. There is a coin-operated Laundromat in the front half of the building. That would stay there, so he will have the income from the Laundromat and the rental upstairs, but in order to make the whole building financially functional he needs to rent out the back space. If he doesn't attract some type of business to go back there, he needs to convert it into an apartment. It is a stand-alone building and it stands on the other side of the creek away from the buildings that are connected on Main Street. On the other side of the building is residential, so you're looking at the last building on the strip even though it stands alone by itself. He said he doesn't think it would change the make-up, and if anything it would bring more life to the area. They have been trying to revitalize Rushville and getting the buildings occupied certainly helps. He said he has the math break-down, but believes he can prove that he does need to rent out the back; however, the village has 1,000 sq. ft. minimum for apartments, because they did an apartment study on how many apartments are in the village and they thought they were getting too many so they

wanted to put a 1,000 sq. ft. minimum on it and it's 1,100 sq. ft. so there is no issue there. They can only have two apartments in one building. The upstairs has always been apartments for the last 51 years and they are rented out now. Mr. Bagley also owns and operates a private investigation company for surveillance investigations, etc. so he doesn't allow people to rent from him that don't have the ability to pay or if they are criminals. He said he doesn't put up with nonsense and if things get broken it gets fixed right away. Of the 7 rentals he has in the Village or on the outside of the Village, there are people that go to him all the time to rent. There's much more of a market for that than there is for someone trying to lease office space in downtown Rushville. He said it makes the building more financially favorable and also allows him to pay back the investment that he paid into the building. He said he has put over \$20,000 invested in this it's not just about breaking even next month, but it's about recouping the cost as well.

Mr. Clute asked where the current tenants park. Mr. Bagley said one parks in the garage and the other parks in the driveway. If this is made into apartments, these people would park in the back; there's room enough for four cars there.

Mr. Mitchell made a motion to approve this application. Mr. Snyder seconded the motion. 7 members were in favor of the motion. Mr. Sawers abstained from the deliberation and the vote.

2010-7 – Jon Bagley, 7 North Street, Village of Rushville. Special Use Permit for the conversion of an existing office into an apartment.

Mr. Clute made a motion to approve this special use permit. Mr. Stape seconded the motion. 6 members approved the motion. Mr. Rubin objected to the motion. Mr. Sawers abstained to the deliberation and the vote.

2010-8 – Daniel and Elizabeth Hoover, 7 Main Street, Village of Penn Yan. Use Variance to allow a mercantile/grocery store in the Village Center zone.

Mr. Hoover stated that he and his wife would like to open a business which would be right next to Angel's Restaurant for a local natural and organic food and general store where everything is from stores within 100 miles and would be either natural or organic. The main reason they are here is because the Village doesn't normally consider a grocery store in the Village Center because they are worried about it taking away from the historic value in the historic district where they would like to be. They would like to have the setting from the general store theme from a few hundred years ago which would add to the value of the historical life of the area.

Mr. Mitchell said he doesn't understand the reasoning behind this because there has been a grocery store in every single business on Main Street. You really have to look to find one that hasn't at some point had a grocery store in it. Mr. Hoover said not too long ago it was in the newspaper of how many stores that sold meat for meat cutting in the village. Fran said she is assuming when they did that, they

were thinking of a super market being in the historic district, but she noted she doesn't see why this particular use would do any damage.

Mrs. Bonshak stated that we received a letter of support from Steve Griffin, who is on the Finger Lakes Economic Board. Mrs. Dumas asked what kinds of changes they are thinking of making on the exterior. Mr. Hoover said they are thinking of repainting, putting up a sign, and putting in thermo-pane windows for more efficiency, but not changing the exterior of the building. Mrs. Dumas then said that they would have to go before the Village's Historic Preservation. Mr. Rubin asked if there's a back door that leads to the parking lot. Mr. Mitchell said it's a story off the ground. The lower level goes out into the street into the parking lot on the back which they don't plan on opening currently, but in the future if they have enough volume they will then open the lower level. Mr. Mitchell stated that they used to load boats from the back. Mr. Rubin asked if the back of the structure is up to date. In reference to the municipal parking areas, it doesn't seem that someone with a few bags of groceries would want to walk all around. Mr. Hoover said he talked to the Village about this and they said parking wouldn't be an issue as far as the zoning is concerned.

Mr. Stape made a motion to approve this application. Mr. Mitchell seconded the motion. All in favor.

COMMUNICATIONS:

None.

OLD BUSINESS:

None.

MEMBER REPORTS:

None.

NEW BUSINESS:

Mrs. Bonshak reported that she wanted to get everyone's interest in regards to scheduling an organizational meeting to elect and re-elect officers, as well as talk about guidelines and checklists for review and possibly talk about the inter-community countywide phrasing. It might be better if we had a meeting to regroup after our normal meeting next month, or go into executive session. Mr. North agreed to have the meeting after the normal meeting.

Mr. Rubin asked Mrs. Bonshak if the Board would be addressing the update of our exemption agreements with the Towns at the organizational meeting. Mrs. Bonshak indicated that she would like some sort of direction if the Board wants her to do anything. She has provided copies of the agreements and has done a spreadsheet on what the counties exempt. She said she doesn't know if the

Board wants her to make suggestions or what they would like her to do about that. Mr. Clute suggested that she make up suggestions. What we have is pretty good, but there were one or two items from Livingston County that he felt we could incorporate. He then asked how many towns responded to us and signed the agreement originally. Mrs. Bonshak noted she believes all of them did, except for possibly Dresden. We could possibly just send them out again for renewal and remind everyone that this is our policy and have them resign them. Mrs. Bonshak stated that these were signed back in 2005. It may be a good time to do this because there are new Code Enforcement Officers on board. Mrs. Bonshak stated she will put some things together and include them in the next packet. Mr. Sawers agreed that we should do that. Mrs. Bonshak noted there is a state law and requirements that we have to follow; there are things that we can't exempt and shouldn't exempt.

Mrs. Scharf asked if anyone has heard any rumblings in regards to the hydro-fracking. Mrs. Bonshak reported that she is the Chair of the Marcellus Shale Task Force and they are non-partisan. They are exploring all of the impacts, positive and negative. They responded to the DEC and they came out with an environmental impact statement that the County Task Force responded to and what they are doing now is following the situation in Pultney and the proposed injections and also coming up with a model road use agreement for the municipalities to enact to help maintain their roads if this hydro-fracking does happen. They are doing that because that is one of the two things they could do. The other would be driveway permitting – you can require specific site plans, but there's really not a whole lot they can do. The road use agreement is almost finished and they will be finalizing that next month.

Ms. Purdy suggested considering having Mrs. Bonshak give the Board updates on what the Task Force is doing. The role of the task force is really to try to get the information to the Towns so if they need to tackle it, they can do it in the manners that they want to tackle it. This will not be stepping on the toes of the town. There are a lot of issues surrounding this and it's only just started to evolve. The latest is whether there is radioactive material involved as well. This will be ongoing for quite awhile and it would be good to have updates once in awhile.

The meeting adjourned at 8:18 p.m.