

**ONTARIO COUNTY PLANNING BOARD**

Referrals for Review at the;

**Coordinated Review Committee Meeting – October 11th, 2016 at 3:30pm****County Planning Board Meeting – October 12th, 2016 at 7:30pm**

2nd Floor Conference Room, Room 200, 20 Ontario Street, Canandaigua, NY 14424 - Telephone: 585-396-4455

This document will serve as both the *Final* 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/>

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## October 14, 2016 Meeting Attendance

Cities	Member	
Canandaigua	<b>James Mueller</b>	P
Geneva	Mary Bogin	P
<b>Towns</b>		
Bristol	Sandy Riker	P
Canadice	<b>Stephen Groet</b>	P
Canandaigua	David Wink	P
East Bloomfield	<b>Arthur Babcock</b>	P
Farmington	Vacant	V
Geneva	Howard E. Meaker	P
Gorham	<b>Jack Dailey</b>	P
Hopewell	Louis Perryman	P
Manchester	<b>Jaylene Folkins, Chair</b>	P
Naples	<b>Carol O'Brien</b>	P
Phelps	<b>Glen Wilkes</b>	E
Richmond	<b>Leonard Wildman</b>	P
Seneca	<b>Timothy Marks, Vice Chair</b>	P
South Bristol	<b>Albert Crofton</b>	A
Victor	Timothy Maher	A
West Bloomfield	Vacant	V
<b>P-Present, E – Excused Absence, A – Absent, V – Vacant</b>		

*(Names in bold are members that currently serve on a local Legislative body, Planning Board or ZBA).*

**Staff Present:** Carla Jordan, OCPD; Regina Sousa, OCPD

**Guests Present:** Keith Gardner (Casa de Refugio); Fred Sheller (BME Assoc./ConServe); Rich LeFrois (ConServe); Lawrence Tillack (Donut Restaurant)

**Call to Order/Roll Call:** Chair Jaylene Folkins called the 10/12/16 County Planning Board meeting to order at 7:34 p.m., and requested Ms. Sousa do roll call. Upon completion of roll call, Ms. Sousa reported that Thirteen (13) members were present meeting quorum requirements.

**Minutes:**

- **September 14, 2016: Motion was made by Steve Groet, seconded by David Wink to approve the September 14, 2016 minutes as presented.**  
Twelve (13) in Favor, 0 Opposed, 1 Abstention (S. Riker). **Motion carried.**

151 - 2016	Town of Manchester Planning Board	Class: 1
Referral Type:	Site Plan	
Applicant:	Gardner, Keith	
Property Owner:	Davis, Mike	
Representative:	Mas Engineering	
Tax Map No(s):	33.00-2-29.200	
Brief Description:	Site Plan and Special Use Permit approval request to construct a 3,550 sq ft post frame building for the purpose of a church facility. Proposed no more than 90 members with 100 parking spaces. Project is located on Stevens St. just west of King Rd. in the Town of Manchester.	

**COMMENTS**

Proposed project to construct a 3,550 sq ft church facility on a 6 acre parcel, with only 0.8 acres of disturbance. Water and sewer will be provided privately by way of installing a new septic system on the property.

**According to ONCOR:**

- No State or Federal wetlands are present on the property.
- The parcel is not located within a FEMA floodplain.
- The property is located in Agricultural District #6. An Agricultural Data Statement should be submitted by the applicant and reviewed prior to action by the referring board.
- Soil Characteristics
  - Type: Palmyra gravelly loam
  - Slope: 0 to 3 percent
  - Soil permeability: High
  - Erodibility: Medium

**OCSWCD Comments:**

There was no Notice of Intent or SWPPP provided.

**OCSWCD Septic Comments:**

1. It is important the proper setback distance from all wells is achieved (ex. house #2897 Stevens street).
2. It is not recommended that any part of the system be driven over at any time or that trees be planted in the leach area.

**Additional CPB Comments:**

1. Even though the proposed disturbance is less than 1 acre, erosion and sedimentation plans should be in place prior to construction.
2. The applicant is encouraged to consider land banking parking.
3. The details related to the developments signage and lighting should be included within the conditions of the Special Use Permit. (i.e. Signage will not be internally lit. All lighting will be dark sky compliant, lighting in the parking lot will be on timers to prevent adverse impact to nearby residents, etc.).

Per the applicant's representative; There will be a sign located at the entrance to the proposed building. All lighting will be dark sky compliant.

**Board Motion:** Referrals #151-2016 & #151.1-2016 be retained as Class 1s and returned to the local board with comments.

Motion made by: David Wink

Seconded by: Sandy Riker

**Vote: 12 in favor, 0 opposed, 0 abstention. Motion carried.**

151.1 - 2016	Town of Manchester Planning Board	Class: 1
Referral Type:	Special Use Permit	
Applicant:	Gardner, Keith	
Property Owner:	Davis, Mike	

Representative:	Mas Engineering
Tax Map No(s):	33.00-2-29.200
Brief Description:	Site Plan and Special Use Permit approval request to construct a 3,550 sq ft post frame building for the purpose of a church facility. Proposed no more than 90 members with 100 parking spaces. Project is located on Stephens St. just west of King Rd. in the Town of Manchester.

Comments: See referral #151-2016 for project summary, comments and motions.

152 - 2016	Town of Victor Planning Board	Class: 2
Referral Type:	Site Plan	
Applicant:	RRL Acquisitions	
Property Owner:	Salzman Realty LLC	
Representative:	BME Associates	
Tax Map No(s):	6.00-1-58.320	
Brief Description:	Subdivision and Site Plan approval request to consolidate a 2.34 acre lot with a 16.22 arce lot to create a 18.5 acre lot and construct a 99,512 sq ft single story office building for an accounts receivable management company. Phase 1 only includes 706 parking spaces and the building. Project is located on CR 42 just west of Phillips Rd. in the Town of Victor.	

### **COMMENTS**

#### **According to ONCOR:**

- No State or Federal wetlands are present on the property.
- The parcel is not located within a FEMA floodplain.
- The property is not located within 500ft of an Agricultural District.
- Soil Characteristics
  - Type: Palmyra fine sandy loam
  - Slope: 3 to 8 percent
  - Soil permeability: High
  - Erodibility: Medium
- Soil Characteristics
  - Type: Palmyra and Howard soils
  - Slope: 25 to 45 percent
  - Soil permeability: High
  - Erodibility: Medium
- Soil Characteristics
  - Type: Pits, gravel and sand
  - Slope: Unknown
  - Soil permeability: Not Rated
  - Erodibility: Unknown
- Parcel zoning = Light Industrial - Proposed use as office space is a permitted use.
- Proposed development maintains 100' vegetative buffer to the adjoining residential district to the west.
- Building will be constructed in one phase, with parking being constructed in multiple phases (Phase 1 = 706 parking spaces, Phase 2 = 214 cars, remaining 45 spaces will be land banked).
- In addition to primary access point an "emergency only" access point has been proposed.
- Developer is proposing installation of a three color signal at Omnitech Place and NYS Route 96 (currently under discussion with NYSDOT)
- Site lighting will consist of dark sky compliant LED lighting.

#### **OCSWCD Comments:**

- No Notice of Intent or SWPPP was provided.
- No details sheet for erosion or sediment control or stormwater practices was provided.

- It appears that proposed temp sediment basin #4 is installed in the soil stockpile area.
- Fertilizer is called for on notes 12 and 13 on page 05. However soil tests should be done prior to applying it to ensure it's needed.
- What measures will be installed to protect the infiltration basin from silt during construction?

**OCDPW Comments (per J.Berry):**

1. The Department of Public Works (DPW) received a referral from the Town of Victor Planning Board including the following attachments:
  - a. Preliminary/Final Site Plan by BME Associates dated September 2016
  - b. Engineer's Report by BME Associates dated September 2016
  - c. Traffic Impact Study by SRF Associates dated September 2016
2. Ontario County has retained an outside consultant to complete a technical review of the traffic report.
3. A Highway Work Permit is required from DPW.
4. Prior to issuance of a highway work permit the applicant will need to provide evidence that all activities within the right-of-way are included in the SWPPP and SPDES permit coverage.
5. A full technical review of the plans will be provided when staff becomes available (from current assignments). Once we have completed our review, a list of comments will be forwarded to the applicant with a copy sent to the Town.

**CRC Comments:**

- Representatives of the applicant reviewed the traffic study. Of note was the applicant's plan to permanently change the working hours of those individuals reporting for shift work. The change in hours would be done to avoid large number of employees leaving the site during the peak evening traffic hour.
- According to the study performed under existing conditions; peak morning hour is 7:15-8:15 / peak evening hour is 4:45-5:45.

**FINDINGS:**

*Per Section 2.5 of the Ontario County Planning Board Bylaws, The State mandated referral of local actions centers mostly around intermunicipal travel corridors (County Roads, State and US Routes). It is only logical to conclude that traffic flow and safety along these roads is of intermunicipal concern.*

*Additionally, When making findings on the County wide and intermunicipal impacts a proposal may have on traffic flow and safety, the Board will seek input from representatives of the Ontario County Department of Public Works.*

*Given the increase in traffic associated with the proposed development on County Road 42, and the potential for the installation of a signalized light on State Route 96, feedback from the Ontario County Department of Public Works and the New York State Department of Transportation is critical to determining the potential for county-wide or intermunicipal impacts.*

**Board Motion:** *Referrals #152-2016 & #152.1-2016 be retained as Class 2s and returned to the local board with the recommendation of approval with the following modifications;*

**Modification #1:** **The referring board will not take action on the referral until comments from both the New York State Department of Transportation (NYSDOT) and Ontario County Department of Public Works have been received and taken into consideration.**

Motion made by: Mary Bogin  
 Seconded by: Leonard Wildman

**Vote: 10 in favor, 3 opposed (J. Dailey, J. Mueller, D. Wink), 0 abstentions. Motion carried.**

152.1 - 2016	Town of Victor Planning Board	Class: 2
Referral Type:	Subdivision	
Applicant:	RRL Acquisitions	
Property Owner:	Salzman Realty LLC	
Representative:	BME Associates	
Tax Map No(s):	6.00-1-58.320	

Brief Description:	Subdivision and Site Plan approval request to consolidate a 2.34 acre lot with a 16.22 arce lot to create a 18.5 acre lot and construct a 99,512 sq ft single story office building for an accounts receivable management company. Phase 1 only includes 706 parking spaces and the building. Project is located on CR 42 just west of Phillips Rd. in the Town of Victor.
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Comments: See referral #152-2016 for project summary, comments and motions.

153 - 2016	Town of Canandaigua Town Board	Class: 2
Referral Type:	Text Amendment	
Applicant:	Town of Canandaigua	
Brief Description:	Text Amendment to establish Solar Energy Law to advance and protect the health, safety, and welfare of the community with the accomodation of solar energy systems and equipment and access to sunlight necessary.	

#### COMMENTS

Zoning code amendment to include a chapter relative to solar energy.

- Proposed amendments differentiate between;
  1. Solar energy systems to be used as an accessory use or structure – roof and ground mounted
  2. Large scale solar energy systems
  3. Small scale solar energy systems in a front yard
- Section 220-77.1(B)(1)(c) (ii) appears to be incomplete as written “solar energy systems should be color compatible with the primary”
- Proposed revisions include requirements for decommissioning and permits/ applications.
- The Town is encouraged to work with CUNY and PACE Law School to determine how the proposed text amendment compares to the New York State Model Solar Energy Law they assisted in the development of. The model law may provide some additional details that the Town may want to consider prior to adoption.

**Board Motion:** *Referral #153-2016 be retained as a Class 2 and returned to the local board with the recommendation of approval with comments.*

Motion made by: Carol O’Brien

Seconded by: Sandy Riker

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

154 - 2016	Town of Canandaigua Town Board	Class: 2
Referral Type:	Text Amendment	
Applicant:	Town of Canandaigua	
Brief Description:	Text Amendment to amend to clarify the treatment of accessory structures, specifically the general definition and related to development in the Residential Lake District.	

#### COMMENTS

- Proposed text amendment to revise the definition of an accessory structure.
  - The proposed definition is: “A detached structure, but not including buildings, subordinate and incidental to the principal building or structure on the same lot, that contributes to the comfort, convenience, or necessity of the occupants of the principal building or structure and that is used for a purpose incidental to the use of the principal building or structure. Accessory structures include but are not limited to swimming pools, tennis courts, basketball courts, paddleball courts, patios, decks, generators. **Accessory Structures shall not include fences for setback purposes**”.
  - The last sentence of the definition represents the proposed change from the existing code.
- Proposed text amendment includes revision to the Residential Lake District section of the code, including;
  - C(2)(d) – removal of associated setbacks for development of an accessory structure on the lakeside portion of a lot when the lot is divided by a street and the principle building is not located on the lakeside portion.
- Proposed text amendment to Regulations applicable to all districts, including;
  - A(1) Preservation of natural features - Addition of qualifying wording “**Except as otherwise stated in this Chapter**”

before “No structure shall be built within 100 feet of the bed of a stream carrying water on an average of six months of the year, or within 25 feet of the mean high-water elevation of Canandaigua Lake, except for:”

- B(5) – Addition of qualifying wording “**Except as otherwise stated in this Chapter**” before “A nine-hundred-square-foot accessory building shall be allowed on vacant lots with no primary building or use and may be used for storage of materials, equipment, and other personal property in the AR-1, AR-2, RR-3 and SCR-1 districts”.
- Addition of K(11) – “Fences on lots adjoining Canandaigua Lake shall not be erected within 15 feet of the Mean High Water Mark and shall not be erected in a way that will impair the view from any neighboring property.”
- Addition of V(5) – “Driveways shall not be subject to the front setback requirements contained elsewhere in this Chapter”

**Board Motion:** Referral #154-2016 be retained as a Class 2 and returned to the local board with the recommendation of approval with comments.

Motion made by: David Wink

Seconded by: Mary Bogin

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

155 - 2016	Town of Canandaigua Town Board	Class: Exempt
Referral Type:	Text Amendment	
Applicant:	Town of Canandaigua	
Brief Description:	Text Amendment to amend the text for Town Code Chapter 152: Parks and Recreation.	

156 - 2016	Town of Canandaigua Planning Board	Class: 1
Referral Type:	Site Plan	
Applicant:	Pfister Energy of Baltimore	
Property Owner:	Westbrook, Greg	
Tax Map No(s):	84.00-1-17.100	
Brief Description:	Site Plan and Special Use Permit approval request to construct a solar energy system. Project is located at 2970 CR 10 in the Town of Canandaigua.	

**COMMENTS**

Proposed project for the construction of a large commercial solar system on an approximately 29.5 acre parcel. Area to be disturbed will be roughly 8.7 acres with 7.9 acres of solar panels to be installed. The 8.7 project acres will be leased by Pfister Energy of Baltimore who will sell energy generated by the system back into the grid. The panels will be post mounted and surrounded by a chain link perimeter fence and will have grass underneath the panels.

Parcel is zoned Industrial.

Due to the amount of grading and excavation proposed, the applicant is required to acquire a soil and erosion permit from the Town.

**According to ONCOR:**

- No State or Federal wetlands are present on the property.
- The parcel is located within a FEMA floodplain on the southern border.
- The property is not located within 500ft of an Agricultural District.
- Soil Characteristics
  - Type: Collamer silt loam
  - Slope: 0 to 3 percent
  - Soil permeability: Moderately High
  - Erodibility: Very High
- Soil Characteristics
  - Type: Odessa silt loam
  - Slope: 0 to 3 percent

- Soil permeability: Moderately Low
- Erodibility: Very High

**OCDPW Comments:**

1. A Highway Work Permit is required.

Sheet C0.0

2. The pavement width on CR 10 is not plotted correctly.
3. The limits of Map No. 7-2011 Parcel 2 Permanent Easement for Highway Purposes are drawn. Limits of Map No. 7-2011 Parcel 1 at NW corner of CR10/CR46 should also be drawn and referenced.

Sheet C1.0

4. The graphic scale is labeled incorrectly. It should be 1 inch = 50 feet.
5. The pavement width on CR 10 is not plotted correctly.

Sheet C2.0

6. The pavement width on CR 10 is not plotted correctly.
7. Plan shows widening the existing gravel driveway on CR 46. Cross section(s) where the driveway crosses the stream should be provided. Is the existing driveway embankment to be widened? Existing driveway culvert lengthened?

Sheet C4.0

8. The scale shown is incorrect. The sheet does not appear to be drawn to any conventional scale.
9. Provide a distance along CR 10 from the proposed stabilized construction entrance to the nearest property corner or other fixed reference.
10. A temporary pipe should be provided to convey surface water under the stabilized entrance.

**OCSWCD Comments:**

- It is suggested that soil tests be done prior to using fertilizer to ensure it's needed.
- Water not carbon chloride should be used to control dust during construction.
- The SWPPP indicates that repairs to deficient erosion and sediment control practices be done within 7 days. It is suggested that repairs be initiated within 24 hrs. of notice.
- Page 6 of the SWPPP references development of an apartment complex. This needs to be corrected to discuss the solar array project.
- The Notice of Intent, SWPPP acceptance form and other required documents have not been signed.

**Board Motion:** *Referrals #156-2016 & #156.1-206 be retained as Class 1s and returned to the local board with comments.*

Motion made by: Tim Marks

Seconded by: Carol O'Brien

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

156.1 - 2016	Town of Canandaigua Planning Board	Class: 1
Referral Type:	Special Use Permit	
Applicant:	Pfister Energy of Baltimore	
Property Owner:	Westbrook, Greg	
Tax Map No(s):	84.00-1-17.100	
Brief Description:	Site Plan and Special Use Permit approval request to construct a solar energy system. Project is located at 2970 CR 10 in the Town of Canandaigua.	

Comments: See referral #156-2016 for project summary, comments and motions.

157 - 2016	Town of Canandaigua Planning Board	Class: 2
Referral Type:	Site Plan	
Applicant:	Bennett, Daniel	
Property Owner:	Muller, Diane, Eileen & Grac	
Tax Map No(s):	57.00-1-21.113	
Brief Description:	Site Plan and Special Use Permit approval request to construct a community solar garden on a 36 acre parcel. The system will have the capacity of 1.98 MW AC power, enough to power approximately 300 local residences. The arrays will be steel ground mounted on driven steel piles. Project is located at 4575 North	

Rd. in the Town of Canandaigua.

**COMMENTS**

Proposed project for a 1.98 MW solar system to be situated on approximately 10 acres of a 36 acre parcel. All panels will be mounted on driven piles. The entire array will include 12 ft. wide rows covering approximately 3.3 acres with 18 ft. of green space between the rows. The system will connect to the existing RG&E power transmission lines located in the Northeast corner of the property.

Presented as a “community shared solar garden” there is no mention of the benefits and logistics that comes with a “community solar” system. Will surrounding residents be able to purchase shares?

**According to ONCOR:**

- There is a Federal wetland (Freshwater Forested/Shrub wetland) located in the Southeast corner of the property. A wetland delineation was completed by Terrestrial Environmental Specialists, Inc. and have stated no impacts to the wetland are anticipated based on the proposed site plan.
- The parcel is located within a FEMA floodplain on the southern border.
- The property is located in Agricultural District #1. An Agricultural Data Statement should be submitted by the applicant and reviewed prior to action by the referring board.
- Soil Characteristics
  - Type: Schoharie silty clay loam
  - Slope: 0 to 3 percent
  - Soil permeability: Moderately High
  - Erodibility: Very High
- Soil Characteristics
  - Type: Schoharie silty clay loam
  - Slope: 3 to 8 percent
  - Soil permeability: Moderately High
  - Erodibility: Very High

**OCSWCD Comments:**

- It appears on page ST1 that some of the solar arrays will be in the wetland area.
- The stabilized construction entrance, stone check dams and grass swale are not shown on the plans. Where will these items be located?
- The general notes on page ST-4 appear to be very general and not specific to this project.

Based on the referral documentation provided the proposed development appears to come into close proximity of wetlands delineated on the property. It is unclear whether the wetlands are under State or Federal jurisdiction. The referring board is encouraged to not take any action until jurisdiction has been determined and appropriate setback requirements and/ or permits are issued by the necessary agencies.

**Additional CPB Comments:**

The Referring Board is encouraged to contact Robin Johnson (Director – Real Property Tax Office) to ensure the implications relative to the proposed installation of a community solar farm on any agricultural tax exemptions are understood.

**FINDINGS:**

*Per section 2.4 of the Ontario County Planning Board Bylaws, the Board has always had an interest in the protection of natural features.*

*Almost any water body by its very nature is “intermunicipal”, whether it is a stream that flows from Town to Town or a wetland that filters water for an aquifer supplying a municipal well.*

*Given the presence of wetlands in very close proximity to the proposed solar panels, the referring agency should verify under whose jurisdiction the wetlands fall to ensure appropriate buffer distances are created and maintained to prevent any adverse impact on*

water quality.

**Board Motion:** Referrals #157-2016 & #157.1-2016 be retained as Class 2s and returned to the local board with the recommendation of approval with the following modifications;

**Modification #1:** The referring board will not take any action on the referral until jurisdiction of the wetlands located on the parcel have been determined and appropriate setback requirements and/or permits are issued by the necessary agencies.

Motion made by: Mary Bogin

Seconded by: Art Babcock

**Vote: 10 in favor, 3 opposed (S. Riker, J. Mueller, D. Wink), 0 abstentions. Motion carried.**

157.1 - 2016	Town of Canandaigua Planning Board	Class: 2
Referral Type:	Special Use Permit	
Applicant:	Bennett, Daniel	
Property Owner:	Muller, Diane, Eileen & Grac	
Tax Map No(s):	57.00-1-21.113	
Brief Description:	Site Plan and Special Use Permit approval request to construct a community solar garden on a 36 acre parcel. The system will have the capacity of 1.98 MW AC power, enough to power approximately 300 local residences. The arrays will be steel ground mounted on driven steel piles. Project is located at 4575 North Rd. in the Town of Canandaigua.	

Comments: See referral #157-2016 for project summary, comments and motions.

158 - 2016	Town of Canandaigua Planning Board	Class: AR-1
Referral Type:	Site Plan	
Applicant:	Venezia & Associates	
Property Owner:	Papenfuss, Robert	
Tax Map No(s):	113.17-1-16.000	
Brief Description:	Site Plan and Area Variance approval request to construct a new deck, house addition, detached garage and driveway. Variance needed for front yard set back related to the garage. Project is located at 4113 Onnalinda Dr. in the Town of Canandaigua.	

**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 - All other applications subject to policy AR-5.

**Final Classification:** Class 1

**Findings:**

1. As of 2005 69% of the parcels in Ontario County were classified as one or two family residential. Between 2000 and 2005, 2,018 residential parcels were added to the County's tax rolls (*Ontario Co. RPTS Annual Report*)
2. Collectively individual residential developments have significant impacts on surface and ground water.
3. Proper storm water and erosion control is also needed to achieve that same end.
4. These issues can be addressed by consulting appropriate agencies during local review and ensuring that those standards are met.
5. 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 placement of on-site septic.
6. 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.

**Final Recommendation** –The CPB will make no formal recommendation to deny or approve.

**Canandaigua Lake Watershed Association Comments:** To be provided

**OCDPW Comments:**

1. The project description provided with the CPB agenda differs from the site plan which shows a proposed addition to an existing house, new deck, and construction of a detached garage and driveway.
2. A sewer renovation permit is required.
3. The Canandaigua Lake County Sewer District provided written comments to the applicant in a letter dated 10/3/2016. Plan revisions and resubmission are requested.

158.1 - 2016	Town of Canandaigua Zoning Board of Appeals	Class: AR-1
Referral Type:	Area Variance	
Applicant:	Venezia & Associates	
Property Owner:	Papenfuss, Robert	
Tax Map No(s):	113.17-1-16.000	
Brief Description:	Site Plan and Area Variance approval request to construct a new deck, house addition, detached garage and driveway. Variance needed for front yard set back related to the garage. Project is located at 4113 Onnalinda Dr. in the Town of Canandaigua.	

Comments: See referral #158-2016 for project summary and comments.

159 - 2016	Town of Canandaigua Zoning Board of Appeals	Class: AR-1
Referral Type:	Area Variance	
Applicant:	Bayer, Mark	
Property Owner:	Wegman, Joy	
Tax Map No(s):	126.16-2-3.310	
Brief Description:	Area Variance request to construct a pool, fence and patio in the rear yard of applicant's property. Pools are not permitted by code in the rear yard and the width of the pool is 7ft above allowed code. Project is located at 4417 CR 16 in the Town of Canandaigua.	

**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 - All other applications subject to policy AR-5.

**Final Classification:** Class 1

**Findings:**

7. As of 2005 69% of the parcels in Ontario County were classified as one or two family residential. Between 2000 and 2005, 2,018 residential parcels were added to the County's tax rolls (*Ontario Co. RPTS Annual Report*)
8. Collectively individual residential developments have significant impacts on surface and ground water.
9. Proper storm water and erosion control is also needed to achieve that same end.
10. These issues can be addressed by consulting appropriate agencies during local review and ensuring that those standards are met.
11. 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 placement of on-site septic.
12. 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.

**Final Recommendation** –The CPB will make no formal recommendation to deny or approve.

**Canandaigua Lake Watershed Association Comments:**

- The backyard/front yard placement of the pool is not concerning as long as the pool discharge does not go directly to the lake.
- Need to see some tree/shrub buffering.
- Will be talking with the Town to go over the pool aspects.

**OCDPW Comments:**

1. Pool drain shall not be connected to the sanitary sewer.

160 - 2016	Town of Naples Planning Board	Class: AR-1
Referral Type:	Subdivision	
Applicant:	Neubauer, Arden	
Tax Map No(s):	203.00-1-21.000	
Brief Description:	Subdivision approval Request to divide a 14 acre parcel into 4 building lots each approximately 3 to 4 acres. All parcels can be accessed from a proposed extension of an existing gravel driveway. The project is located at 8448 CR 36 in the Town of Naples.	

**Policy AR-6: Single-family residential subdivisions under five lots****The intent of this policy is to:**

- Address traffic safety along intermunicipal corridors by encouraging proper placement of residential driveways along County roads.
- Address impacts to ground and surface waters

**Final Classification:** Class 1**Findings**

1. As of 2005 69% of the parcels in Ontario County were classified as one or two family residential. Between 2000 and 2005, 2,018 residential parcels were added to the County's tax rolls (Ontario Co. RPTS Annual Report)
2. Collectively individual residential developments have significant impacts on surface and ground water.
3. Proper design of onsite 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 subdivisions 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.

161 - 2016	Village of Naples Planning Board	Class: AR-1
Referral Type:	Site Plan	
Applicant:	Flanigan, Michael	
Property Owner:	103 North Main Naples LLC	
Tax Map No(s):	201.18-1-11.100	
Brief Description:	Site Plan approval request for the change of use in a 3,000 sq. ft. building to accommodate a dental office, which is an allowed use in the C-1 district. The project is located at 103 S. Main St. in the Village of Naples.	

**Policy AR-4: Use of existing facilities for a permitted use with no expansion of the building or paved area.**

Applications involving only the use of existing facilities for a permitted use with no expansion of the building or paved area of have been determined by this Board to be a category of referrals with no potential countywide or inter-municipal impact. Applications for specially permitted uses or the addition of drive through service are not covered under this policy and will require full board review.

**Final classification:** Class 1**Findings:**

1. Applications addressed by this policy propose no new development.
2. Applications addressed by this policy include only permitted uses.
3. Such applications present little potential for countywide or intermunicipal impact.

Final Recommendation - The CPB will make no formal recommendation on applications involving only the use of existing facilities for a permitted use with no expansion of the building or paved area.

**Comments:** The proposed onsite wastewater treatment system should be reviewed by the Canandaigua Lake Watershed Inspector prior to approving the site plan.

*Note: If applicant intends to expand the use or modify any structures on the property, the application must be re-referred to the County.*

162 - 2016	Village of Phelps Planning Board	Class: 1
Referral Type:	Site Plan	
Applicant:	Tillack, Lawrence	
Tax Map No(s):	35.19-1-17.000	
Brief Description:	Site Plan approval request to construct a 30 ft x 50 ft single story building to be used as a doughnut and breakfast restaurant. The applicant is proposing a drive thru window and enough seating for 45 people inside. Cross access easements will allow cars to enter via existing enterances off of Rte. 88 and 96. The project is located at 266 Main St. in the Village of Phelps.	

#### **COMMENTS**

##### **According to ONCOR:**

- No State or Federal wetlands are present on the property.
- The parcel is not located within a FEMA floodplain.
- The property is not located within 500ft of an Agricultural District.
- Soil Characteristics
  - Type: Farmington loam
  - Slope: 0 to 3 percent
  - Soil permeability: Moderately High
  - Erodibility: Medium
- Soil Characteristics
  - Type: Palmyra fine sandy loam
  - Slope: 0 to 3 percent
  - Soil permeability: High
  - Erodibility: Medium

##### **NYSDOT Comments (via G. Trost email dated 10.06.16)**

*"Here is a little history on this site. Before the Family Dollar was built, Mr. Glenn Thornton, Thornton Engineering, did the plans for the driveway on Route 96. Before the Family Dollar was built, there was a house with a driveway that was not in a good location for the site. But the Family Dollar project had that old house taken down and relocated the driveway in a location that could serve both itself, and this future business. This form of shared access keeps the intersection less cluttered by keeping driveways further away from the intersection, and has less conflict points as far as driveways onto a State highway. When the original plan came in for the restaurant finally came to light years after the Family Dollar was built, it showed work occurring in the NYSDOT right-of-way. And, it had parking on the southern portion of the restaurant. We said that the reason for the work that occurred for Family Dollar was also for the future site restaurant, they revised their drawing. So now, as you see, the driveway into the Family Dollar has another driveway off of it, out of the NYSDOT R.O.W. (which is the back of the sidewalk) and goes into the site far enough so cars shouldn't queue back into the Family Dollar driveway, or worse, onto Route 96.*

*The bottom line is that Mr. Thornton addressed our concerns and the NYSDOT finds that the proposed construction will not negatively impact the existing minor commercial driveway to the Family Dollar and would not require any modification to that entrance. Deliveries for the restaurant could be handled at the larger existing entrance off of Route 88."*

**Board Motion:** Referrals #162-2016 be retained as a Class 1 and returned to the local board with comments.

Motion made by: Tim Marks

Seconded by: David Wink

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

163 - 2016	Village of Phelps Zoning Board of Appeals	Class: 2
Referral Type:	Use Variance	
Applicant:	Fancese, Alan	
Property Owner:	Lord, Scott	
Tax Map No(s):	48.05-1-18.000	
Brief Description:	Use Variance approval request to allow the parking of vehicles outside of the building in question, along with maintenance and sale of vehicles to emergency service providers. The project is located at 120 Main St. in the Village of Phelps.	

**COMMENTS**

Applicant is requesting a Use Variance to allow the parking of vehicles outside of a building, and maintenance of vehicles, for the purpose of sale and occasional maintenance in connection with the retail sales of equipment and vehicles to emergency service providers .

Property is located within the B-O District.

According to the referral documents;

- The primary business of the applicant is that of retail sales of such items as embroidered uniforms for fire fighters, customized fire resistant jackets for fire fighters and equipment for fire trucks and other emergency vehicles.
- In conducting his business the applicant also provides the sale of emergency vehicles and services emergency vehicles. Do to this segment of his business he requires the ability to temporarily store emergency vehicles.
- Applicant is seeking a property that will meet the needs of all aspects of his business.

Under the Use Variance process the applicant is required to meet **all** four prongs of the use variance test, including;

- 1.That, without the variance, there would be no reasonable rate of return on the property
- 2.That the hardship is unique to the property in question and does not exist for all properties in the neighborhood
- 3.That the granting of the variance will not alter the essential character of the neighborhood
- 4.That the hardship imposed has not been self-created.

As the specific nature of the variance is to store items outside in a district where that specific type of display/storage isn't allowed, it appears difficult to support that the impact of granting the variance will not have a negative impact on neighborhood character. If the use variance is granted the referring board should ensure that appropriate screening measures are in place so that there is not impact to neighborhood character.

The historic use of the property does not matter if the ownership and/or scale of use has changed since the zoning law was modified. The board has the opportunity to look at each application on its face value understanding the requirements of the district at the present time.

**Board Motion:** *Referral #163-2016 be changed to a Class 1.*

Motion made by: David Wink

Seconded by: Leonard Wildman

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

**Board Motion:** *Referral #163-2016 be retained as a Class 1 and returned to the local board with comments.*

Motion made by: Mary Bogin

Seconded by: Tim Marks

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

164 - 2016	Town of Canandaigua Planning Board	Class: AR-1
Referral Type:	Special Use Permit	
Applicant:	Eagle, Dianne	
Tax Map No(s):	71.18-3-22.100	
Brief Description:	Special Use Permit Request to start a major home occupation of running an art studio and art lessons. The project is located at 4727 Grandview Park in the Town of Canandaigua.	

**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 - All other applications subject to policy AR-5.

**Final Classification:** Class 1

**Findings:**

13. As of 2005 69% of the parcels in Ontario County were classified as one or two family residential. Between 2000 and 2005, 2,018 residential parcels were added to the County's tax rolls (*Ontario Co. RPTS Annual Report*)
14. Collectively individual residential developments have significant impacts on surface and ground water.
15. Proper storm water and erosion control is also needed to achieve that same end.
16. These issues can be addressed by consulting appropriate agencies during local review and ensuring that those standards are met.
17. 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 placement of on-site septic.
18. 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.

**Final Recommendation** –The CPB will make no formal recommendation to deny or approve.

## General Information

The Ontario County Planning Board 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 Disapproval).

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 I, 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 disapproval 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 AR2 is a review as a Class 2 and require local board action if disapproved. The following table summarizes the administrative review policies specified in the bylaws.

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