

ONTARIO COUNTY PLANNING BOARD

Referrals for Review at the: **Coordinated Review Committee Meeting – Cancelled**
County Planning Board Meeting –January 13, 2021 at 7:00pm Virtual Meeting Click Join Meeting hyperlink below
 Telephone: 585-396-4455

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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Call To Order/Roll Call: Sue Boardman Nominating Committee Chair called the 1/13/21 CPB meeting to order at 7:05 and requested Ms. Holley to do roll call. Ms. Holley presented roll call and reported that there were eleven (11) members present virtually and three (3) members physically at 20 Ontario Street, meeting the quorum requirement. The Quorum was reduced to 13 when one member left at approximately 7:15 after the approval of minutes and before any voting on referrals occurred.

Cities	Member name in bold if on local legislative, planning, or zoning board	P-Present, E – Excused Absence, A – Absent, V – Vacant		
Canandaigua	VACANT			V
Geneva	Paul Passavant	P		
Towns				
Bristol	Sandy Riker	P		
Canadice	Stephen Groet PB	P		
Canandaigua	David Wink	P		
East Bloomfield	Mike Woodruff PB	P		
Farmington	Patti Wirth	P		
Geneva	Steven High	P		
Gorham	Jack Dailey PB		E	May arrive late
Hopewell	Bill Namestnik	P		
Manchester	VACANT			V
Naples	Carol O’Brien PB	P		
Phelps	Glen Wilkes PB	P		
Richmond	Leonard Wildman PB	P (until 715)		
Seneca				V
South Bristol	Bessie Tyrrell	P		
Victor	Marty Avila	P		
West Bloomfield	Sue Boardman ZBA	P		
	Alternate Member			

Guests: Ryan McCune/NextAmp & Ken Casamento LSC Group-NextAmp, AJMagnan/T.Bristol Planning Board

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

Presentation of slate of officers and vote on slate

Nominating Committee nominated Leonard Wildman as Chair and Water Resources Council representative and David Wink as Vice Chair.

- *Motion made by Mike Woodruff to approve the recommended slate of officers as seconded by Paul Passavant* **Motion Carried.**

Minutes

- *Motion made by Carol O'Brien to approve the October 13, 2020 minutes as seconded by Sue Boardman **Motion** carried (required abstentions Bill, Marty, Bessie)*
- *Motion made by Sue Boardman to approve the November 12, 2020 minutes **as revised**, seconded by Steve High (abstentions Sandy ,Mike, Bill, Bessie) **Motion carried***
- *Motion made by Glen Wilkes to approve the December 19, 2020 minutes **as revised**, seconded by Patti Wirth (abstentions carol , bessie) **Motion carried***

Action Key - Recommended referring body action: A = approve, A-M = Approve with Modification, D = disapproval

Referral No	Municipality	Referring Board	Applicant	Application Type	Class/Action	Page
2 - 2021	Town of Phelps	Planning Board	McCune, Ryan	Site Plan	1	4
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7 - 2021	Town of Hopewell	Planning Board	Swarthout, Steve	Special Use Permit	1	8
8 - 2021	Town of Gorham	Zoning Board of Appeals	Wanger, Eric & Mary	Area Variance	AR-2	9
9 - 2021	Town of Farmington	Zoning Board of Appeals		Area Variance	Late Referral 1	10
10-2021	Town of Victor	Zoning Boards of Appeals	Canzano, Patrick & Sarah	Area Variance	Late Referral 1	10
11-2021	Town of Naples	Town Board	Town of Naples	Text Amendment	Late Referral 2/A	11

Wednesday, January 13, 2021

Draft January 13, 2021 CPB Minutes

7:00 pm | (UTC-05:00) Eastern Time (US & Canada) | 2 hrs

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Motion made by Mike Woodruff to accept later referrals 9-2021, 10-2021, and 11-2021 as seconded by Marty Avila. **Motion carried**

There is no referral numbered 1-2021.

2-2021	Town of Phelps Planning Board	Class: 1
Referral Type:	Site Plan	
Applicant:	McCune, Ryan	
Property Owner:	Leach Road Land Company	
Tax Map No(s):	34.00-3-65.100	
Brief Description:	Site plan for a 5 MW solar facility west of Everson Road on 42 acre portion of 183 acre property between SR 96 and I-90 west of Everson Road in the Town of Phelps. https://www.co.ontario.ny.us/DocumentCenter/View/26959/2-2021-Aerial https://www.co.ontario.ny.us/DocumentCenter/View/26970/2-2021-2020-12-29-single-page-SITE-PLAN	

The project area is characterized as a 21 acre facility with 16,172 east-west tilting solar panels, two inverters, and a 7' chair link deer fence, though the area of disturbance is 26.22 acres and the area inside the fence is likely closer to 26 acres than the 21 acres covered by panels. A re-zoning request associated with the project was reviewed as referral #186-2020 in November 2020.

The site plan also shows 2,300' of 15' wide gravel access road. The access road requires installation of a culvert to maintain existing drainage pattern along a swale draining north from the center of the project site. There are dry swales along approximately 800' of the access road. Though the land drains to the north and west, the access road in the eastern portion of the site drains to the south and on the western portion of the site the access road drains to a dry swale. It appears the access road run-off is intended to enter the dry swales which may filter run-off before it enters the culvert and retained natural swale draining to the north or sheet flows to the creek in the southwest corner of the site. The project will create .97 acres of impervious area. A SWPPP has been prepared. The site plan application also includes a glare analysis from I-90 and SR 96. The analysis does not anticipate motorists will experience glare. The site plan also shows 7 utility poles along the west side of the access road for interconnection of the project with the NYSEG power line along SR 96.

According to OnCor, the project site is not in the agricultural district and has little to no slope and no indicated wetlands. Approximately half of the SR 96 frontage north of SR 96 and west of Everson Road to a depth of 325' as well as additional areas south of SR 96 are in the floodplain. Project site soils have medium to high erodibility and moderate to moderately high permeability.

Applicant owned lands to the west of the development site in the Town of Manchester are zoned C-1 Commercial. There is an existing billboard 22' high just west of the proposed access drive.

The EAF indicates 3 acres of disturbance resulting in .97 impervious acres from removing .93 acres of forest and .14 acres of meadow. The EAF indicates impervious area stormwater quality impacts will be mitigated with infiltration areas; other portions of the project area will continue to drain via swales to the stream.

The planting plan indicates that at the western edge of the project site along the stream corridor, existing vegetation 20' to 25' in height screens the array from view. The plan also shows existing vegetation that screens views to the array from SR 96 in the center of the project site and along I-90. The planting plan proposed vegetative screening along SR 96 and at the east end of the project site adjacent to an existing residential use. The screen is primarily holly and arborvitae (39 each with 5 year height of 15') and 8 red maples trees with 5 year height of 40'. All proposed species have mature heights of 35' to 40' and width/recommended spacing of 18' to 25'.

The site plan does not reference a 200' stream buffer as shown on the concept plan submitted with the rezoning and does not identify the purpose or owner of the easement along the portion of Sulphur Creek closest to SR 96. The site plan materials also do not indicate the height of the utility poles that were previously identified as 40'.

The Operations and Maintenance Plan characterizes the applicant, Nextamp, as an owner/operator. The Operations and Maintenance Plan and Decommissioning Plan are boiler plate documents that do not take into consideration any unique features of this project site.

Comments

1. The permit application discusses Nextamp’s solar grazing program. Is use of sheep grazing proposed instead of quarterly mowing and herbicide at this location?
2. The applicant should map existing site agricultural drainage infrastructure and commit to repairing any such infrastructure damaged during project construction to ensure continued viability of ± 336 acres of nearby agricultural land indicated on the agricultural data statement.
3. What is the purpose and who is the holder of the easement along the portion of Sulfur Creek immediately north of SR 96.
4. The permit application screening plan narrative indicates the planting plan will replication existing vegetation with staggered/clustered placement and a mix of 4 species. The revised planting plan quantity table does not include balsam firs.
5. The site plan and decommissioning plan don’t mention use of an environmental monitor or removing and stockpiling topsoil from the access drive and inverter areas and de-compacting site soils before replacing topsoil. These activities are necessary for agricultural re-use of the property. See NYSDAM Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands https://agriculture.ny.gov/system/files/documents/2019/10/solar_energy_guidelines.pdf
6. What is the intended purpose of the access gates at the western end of the site?
7. The EAF part 3 references the Town of Clifton Springs Town Board not the Town of Phelps as the lead agency.

In response to staff comments and CPB questions the applicant offered the following clarifications

1. NextAmp has two existing groups of solar energy facilities in geographic proximity to support rotation grazing to maintain site vegetation. Including the Phelps site, NextAmp intends to develop a group of 4 new solar energy projects capable of supporting a third sheep herd to maintain vegetation. Grazing is not feasible, until 4 project in a suitable geographic proximity are available for rotating herd.
2. The current property owner has owned the land since the 1970s and is not aware of any subsurface agricultural drainage infrastructure. The owner has also indicated, in spite of the land’s prime soil characterization, it is their least productive farmlands and has been selected to re-zone and develop as a solar energy facility for this reason.
3. The Sulfur Creek easement is a drainage easement to the Town of Phelps.
4. The applicant characterized the western access gate as for emergency access only and the likely solar panel reflectivity as similar to that of a pond.

Board Motion: To retain referral 2-2021 as a class 1 and return it to the local board with comments.
Motion made by: Paul Passavant **Seconded by:** Mike Woodruff
Vote: 12 in favor, 0 opposed, 1 abstention (Glen Wilkes) **Motion carried.**

3 - 2021	Town of Canandaigua Planning Board	Class: Withdrawn
Referral Type:	Site Plan	
Applicant:	Casey, John	
Tax Map No(s):	112.00-1-72.000	
Brief Description:	Site plan and area variance for 180 SF accessory building on 3,467 SF lake side lot at 3814 CR 16 in the Town of Canandaigua.	

3.1 - 2021	Town of Canandaigua Zoning Board of Appeals	Class: Withdrawn
Referral Type:	Area Variance	
Applicant:	Casey, John	
Tax Map No(s):	112.00-1-72.000	
Brief Description:	Site plan and area variance for 180 SF accessory building on 3,467 SF lake side lot at 3814 CR 16 in the Town of Canandaigua.	

4 - 2021	Town of Canandaigua Planning Board	Class: Exempt
Referral Type:	Site Plan	
Applicant:	Hanlon Architects	
Property Owner:	Battisti, Marcello & Stacy	
Tax Map No(s):	98.15-1-33.00	

Brief Description:	Site plan and area variance for 658 SF house addition and removal of shed and portions of walkway and driveway to slightly reduce to 33.4 percent the non-conforming lot coverage while increasing build ing coverage from 15.5 to 20 percent. Property at 3542 Sandy Beach Drive in the Town of Canandaigua has proposed 36.6 front/road setback when 55' is required.
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See information at 4.1-2021

4.1 - 2021	Town of Canandaigua Zoning Board of Appeals	Class: AR 1
Referral Type:	Area Variance	
Applicant:	Hanlon Architects	
Property Owner:	Battisti, Marcello & Stacy	
Tax Map No(s):	98.15-1-33.00	
Brief Description:	Site plan and area variance for 658 SF house addition and removal of shed and portions of walkway and driveway to slightly reduce to 33.4 percent the non-conforming lot coverage while increasing build ing coverage from 15.5 to 20 percent. Property at 3542 Sandy Beach Drive in the Town of Canandaigua has proposed 36.6 front/road setback when 55' is required.	

CPB previously reviewed an area variance to increase lot coverage on this site as referral 191-2020 in November 2020. The current application only requires a front/road setback. The rear (lake) setback of 43' exceed the required 30' setback. The applicant proposes to raise the existing house to comply with floodplain elevation given the substational nature of the addition.

According to OnCor, the portion of the lot east of Sandy Beach Drive is in the floodplain.

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

The intent of this policy is to:

- Address residential development that may infringe on County ROW's or easements for roads and other infrastructure.
 - Address traffic safety along intermunicipal corridors by encouraging proper placement of residential driveways along County roads.
 - Address impacts to ground and surface waters
- C. Applications subject to policy AR-5 and not involving lakefront lots with coverage, or side or lakefront setback variances or with encroachments on County right-of-ways.

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 off on-site sewage disposal is needed to protect ground and surface waters.
4. Proper storm water and erosion control is also needed to achieve that same end.
5. Proper sight distance at access points along County roads is an important public safety issue of county wide significance.
6. Standards related to protecting water quality and traffic safety have been established by agencies such as the American Association of State Highway and Transportation Officials (AASHTO), and NYSEDC.
7. These issues can be addressed by consulting appropriate agencies during local review and ensuring that those standards are met

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

Comments

1. The Town is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot.
2. The applicant and referring agency are strongly encouraged to involve Ontario County Soil and Water Conservation District or Watershed Manager as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures.

OCDPW Comment Renovation permit required and complete plan. Plans have been received for review from Town of Canandaigua.

5 - 2021	Town of Canandaigua Zoning Board of Appeals	Class: AR 2
Referral Type:	Area Variance	
Applicant:	Architectural Innovations	
Property Owner:	Chessin, Daniel & Rina	
Tax Map No(s):	140.18-1-5.000	
Brief Description:	Area variance to expand a deck by 350 SF and convert a portion to a screened porch at residence at 4847 CR 16 just south of Deuel Road in the Town of Canandaigua. The deck has proposed 51' rear (lake) setback when 60' is required.	

According to Oncor the majority of the lot has slopes of 16 to 30 percent and the shoreline and area south of the house have slopes of 31 to 60 percent.

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

Part B Development of Lakefront Parcels.

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

The CPB's role of reviewing and making recommendations on county wide development has provided a unique perspective on the trend of more intensive development and use of lakefront lots. Of particular concern are the incremental negative impacts to water quality and the character of our lakefront neighborhoods. The following policy is a result of discussion and debate spanning 18 months as well as consultation with outside agencies directly involved with water quality issues in Ontario County. The intent is to address over development of lakefront lots and support the clearly stated interest by local decision makers to do the same.

Final Classification: 2

Findings:

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

Final Recommendation: Denial

Comments

1. The referring body is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot.
2. The applicant and referring agency are strongly encouraged to involve the 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.

6 - 2021	Town of Victor Planning Board	Class: 1
Referral Type:	Site Plan	
Applicant:	Venezia & Associates	
Tax Map No(s):	26.00-1-13.100	
Brief Description:	Three lot subdivision of 41 acre lot along Strong Road south of Taylor Road in the Town of Victor. https://www.co.ontario.ny.us/DocumentCenter/View/26962/6-2021-Aerial https://www.co.ontario.ny.us/DocumentCenter/View/26961/6_2021-Subdivision	

Subdivision to create a 7 acre and an 8.5 acre lot east of Strong Road and a 36 acre lot west of Strong Road.

According to OnCor, the rear portions of all 3 lots have slopes of 16 percent or greater. There is a stream crossing in the southwest corner of lot 1 in an area of 31 to 60 percent slope. OnCor does not indicate any areas of wetlands or floodplains. Primary soil characteristics are as follows:

Artport fine sandy loam, 3 - 8 % 5.2 acres 8-15% 29 acres
 Prime Farmland (3-8% slope) or Farmland of Statewide Importance (8-15% slope)
Permeability: high **Erodibility:** high
Hydrological Group A Not Hydric
Palmyra Gravelly loam, 15 to 25 % 6.4 acres
Not Prime Farmland
Permeability: high **Erodibility:** medium
Hydrological Group B Not Hydric

Comment

Any future access to Lot 2 should be aligned with Taylor Road. Any future access to Lot 3 should be appropriately off set from the existing driveway on Lot 1.

Board Motion: To retain referrals 6-2021, 7-2021, 9-2021 and 10-2021 as class 1s and return them to the local boards with comments. **Motion made by:** Mike Woodruff **Seconded by:** Glen Wilkes
Vote: 13 in favor, 0 opposed, 0 abstentions **Motion carried.**

7 - 2021	Town of Hopewell Planning Board	Class: 1
Referral Type:	Special Use Permit	
Applicant:	Swarthout, Steve	
Representative:	McCormick Engineering PC	
Tax Map No(s):	58.00-1-89.510	
Brief Description:	Special use permit for 3,500 SF garage with a one bedroom family/caregiver apartment on a 27 acre residential lot at 2110 SR 21 south of Johnson Road in the Town of Hopewell. https://www.co.ontario.ny.us/DocumentCenter/View/26964/7-2021-Aerial https://www.co.ontario.ny.us/DocumentCenter/View/26963/7_2021-Site-Plan-Enlarged	

According to OnCor, the parcel is not in the agricultural district and not constrained by floodplains, wetlands, or steep slopes. has moderate slope of less than 10 percent

Comments

1. What square footage is devoted to garage and apartment uses?
2. Does detached location meet the definition of family/caregiver apartment?
3. EAF is not signed.

Board Motion: To retain referrals 6-2021, 7-2021, 8-2021, 9-2021 as class 1s and return them to the local boards with comments.
Motion made by: Mike Woodruff **Seconded by:** Glen Wilkes
Vote: 13 in favor, 0 opposed, 0 abstentions **Motion carried.**

8 - 2021	Town of Gorham Zoning Board of Appeals	Class: AR-2
Referral Type:	Area Variance	
Applicant:	Wanger, Eric & Mary	
Tax Map No(s):	113.15-1-23.100	
Brief Description:	Area variance for 416 SF first floor addition on the street side that exceeds allowable lot coverage by 1.5 percent and 2nd story addition that requires a 9.4' side setback variance at 3940 East Lake Road in the Town of Gorham.	

The application materials indicate the total SR of the addition is 1,340 SF although the additional footprint is only 416 SF. The property is located south of Turner Road and just north of the apartments on the east side of SR 364 at 3941-3943 SR 364. The property includes a garage setback 10' from the ROW.

According to OnCor, approximately 20 percent of the lot is in the floodplain. The shoreline and areas adjacent to the garage have slopes of 16 to 30 percent.

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

B. The following applies to all development on parcels with lake frontage that require;

- variances pertaining to lot coverage or,
- variances pertaining to side yard setbacks or,
- variance pertaining to lake shore setbacks

The CPB's role of reviewing and making recommendations on county wide development has provided a unique perspective on the trend of more intensive development and use of lakefront lots. Of particular concern are the incremental negative impacts to water quality and the character of our lakefront neighborhoods. The following policy is a result of discussion and debate spanning 18 months as well as consultation with outside agencies directly involved with water quality issues in Ontario County. The intent is to address over development of lakefront lots and support the clearly stated interest by local decision makers to do the same.

Final Classification: 2

Findings:

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

Final Recommendation: Denial

Comments

1. The referring body is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot.
2. The applicant and referring agency are strongly encouraged to involve the 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.

9- 2021	Town of Farmginton Zoning Board of Appeals	Late Referral Class: 1
Referral Type:	Area Variance	
Applicant:	Kurt Catalano	
Tax Map No(s):	30.00-1-85.100	
Brief Description:	Area variance for location of 3,200 SF pole barn in the front yard of a corner lot at 1308 Payne Road and SR 96 in the Town of Farmington. https://www.co.ontario.ny.us/DocumentCenter/View/26965/9-2021-1308-Payne-Rd-Plat-Map	

The proposed barn location is setback 95' from Payne Road, 25' closer to Payne Road than the house and 30' from the drainage ditch that parallels Payne Road. Like the existing barn, the long side of the barn faces SR 96. The front setback distance of the barn from both roads is adequate.

The variance application indicates an intention to plant pine trees and other plantings around the log cabin.

According to OnCor, the lot and all adjacent properties are in the agricultural district and not constrained by floodplains, wetlands or steep slopes. There is a stream that passes through the lot parallel to SR 96 in the area designated as a vegetated ditch on the concept plan.

Comments

1. The referring body may want to require planting bed(s) with diverse species along the SR 96 frontage to partially screen views to the barn from SR 96.

Board Motion: To retain referrals 6-2021, 7-2021, 8-2021, 9-2021 as class 1s and return them to the local boards with comments.
Motion made by: Mike Woodruff **Seconded by:** Glen Wilkes
Vote: 13 in favor, 0 opposed, 0 abstentions **Motion carried.**

10- 2021	Town of Victor Zoning Board of Appeals	Late Referral Class: 1
Referral Type:	Area Variance	
Applicant:	Canzano, Patrick & Sarah	
Tax Map No(s):	26.00-1-13.100	
Brief Description:	Area variance for location of future residence behind an existing barn on property at 1086 Strong Road in the Town of Victor. https://www.co.ontario.ny.us/DocumentCenter/View/26969/10-2-1086-Strong-Road-map-for-linkCanzano-2-Z-2021	

According to OnCor, the rear portion of this lot has slopes of 16 percent or greater. OnCor does not indicate any areas of wetlands or floodplains. Primary soil characteristics on the parent parcel as outlined in referral 6-2021 above are as follows:

Artport fine sandy loam, 3 - 8 % 5.2 acres **8-15%** 29 acres **check this category on explore area**
Prime Farmland
Permeability: high **Erodibility:** high
Hydrological Group A **Not Hydric**
Palmyra Gravelly loam, 15 to 25 % 6.4 acres
Not Prime Farmland
Permeability: high **Erodibility:** medium
Hydrological Group B **Not Hydric**

Comment Any future access to this lot should be appropriately off set from the existing driveway to the residence/garage at the southwest corner of Taylor Road and Strong Road.

Board Motion: To retain referrals 6-2021, 7-2021, 8-2021, 9-2021 as class 1s and return them to the local boards with comments.
Motion made by: Mike Woodruff **Seconded by:** Glen Wilkes
Vote: 13 in favor, 0 opposed, 0 abstentions **Motion carried.**

11- 2021	Town of Naples Town Board	Late Referral Class: 2
Referral Type:	Text Amendment	
Applicant:	Town of Naples	
Brief Description:	Text and map amendment to clarify and consolidate definitions in the Town zoning code and amend regulations for a mixed use overlay district along SR 21 in the Town of Naples and to expand the boundaries of the overlay district to include some lots fronting SR 53.	

The proposed Mixed Use District appears to be intended as an overlay district that restricts many of the permitted and specially permitted uses allowed in the underlying R-1 District including agricultural activities involving livestock , Timber and Firewood Harvesting, municipal structures (permitted in R-1 District but not defined) Campgrounds, small-scale mining, Dog Kennels, animal hospitals, private airfields, and large-scale commercial-recreational facilities. The proposed Multiple Use district does not allow Day-Care Centers, Home Businesses, or Major Solar Collector Systems currently allowed in R-1 District and only allows telecommunication towers and wind turbines 40' or less in height. The proposed regulations require site plan review for conversion of all or portion of a lot to a commercial use and for any special use.

The proposed district permits uses not otherwise permitted in the R-1 District such as Factory Manufactured Homes and Bed and Breakfasts with 3 to 5 bedrooms and additional Permitted Special Uses such as Manufactured Home Parks, Multiple Dwellings (3-4 units) , Apartment Houses (5 or more units), arcades and game rooms, Personal Services, Equestrian Operations, Conversion of a Dwelling or portion thereof to a commercial use other than a home occupation, Light Industrial/Light Manufacturing, detached storage facilities as a principal or accessory uses, and alcoholic beverage, maple syrup and juice production . Capitalized terms are defined in existing and/or proposed 132-8.

Comments

1. The district appears to be intended as an overlay district in an area zoned R-1 (see section 132-26 B.) If this is correct, the district name should be Multiple Use Overlay District in the title, Section 1 Short title, in code sections 139-9 and 139-10.4, the legal description on p. 7, the A. B. C. and D subsections of 132-26 and on the updated Official Zoning Map.
2. The definition of Small Retail Sales is based on 10 full-time or part-time employees. Consider less ambiguous definition of allowable staff that relates to controlling impacts such as number of staff working on site (an e-commerce retail business may have many off-site employees) or 10 Full time or Full Time Equivalent employees.
3. Since this amendment is repealing/deleting some definitions, it also needs to amend other zoning district permitted and specially permitted use lists that use such terms.
4. The Permitted Use list includes Manufactured Home Parks, although the edits to definitions repeals this defined term.
5. Does the Town want to include clear categorization/regulation of 5G telecommunications equipment in essential services or otherwise?
6. What is the rationale for continuing to include only a portion of lot 204.05-3-29.00 and its Manufactured Home Park in the Multiple Use (Overlay) District?
7. What is the rationale for continuing to include only a portion of lot 203.12-1-2.200 in the Multiple Use (Overlay) district? Consider rezoning the entire parcel to be in the R-1 and MU Overlay Districts.
8. Neither existing nor proposed regulations includes design guidelines as referenced in section 132-26 A.
9. Is the intention to allow Adult Arcades in the Multiple Use overlay?
10. Clarify amendments to 132-28 regarding cluster development to indicate whether sub-section B. is being amended to change minimum lot size from 1.5 acres to 23,500 SF with a width of 100' and compliance with Chapter 116 Subdivision of Land is required.
11. District regulations should include cross reference to Regulations Applicable to All Districts, Supplemental Regulations. Special Use Permits, Site Plan Regulations and Signs.
12. SR 21 is a primary tourism corridor and uses in this area should be subject to design standards related to building and parking placement; frontage and site landscaping and lighting; and access management standards to protect the visual character and safety of this highway segment.

Board Motion: To retain referral 11-2021 as a class 2 and return it to the local board with comments and a recommendation of approval. **Motion made by:** Mike Woodruff **Seconded by:** Sandy Riker
Vote: 13 in favor, 0 opposed, 0 abstentions **Motion carried.**

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	Variations 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)

- **Reviewed roster** and noted changes in contact info.
- **Reviewed draft CPB Annual Report** see revised Executive Summary below

Membership and Training

1. The Board welcomed 1 new member and 1 returning member in 2020.
2. Board positions were vacant 8% of the time.
3. OCPD organized 1 in-person training for CPB members and three virtual training programs attended by over 100 municipal, planning, and zoning board members and interested community members.

Referrals

1. The number of referrals reviewed in 2020 was 279 down 15 percent from 327 referrals in 2019 but in line with the 274 referrals in 2018.
2. The number of referrals from the Town of Victor decreased from 75 in 2019, to 40 in 2020. The number of referrals increased substantially in the Towns of Geneva (from 7 to 21) and moderately in South Bristol (from an average of 12 each year for 2018 and 2019 to 20 in 2020). The number of referrals from the Towns of West Bloomfield and Richmond declined.
3. Site plans (95 referrals) and area variances (65 referrals) continue to be the most frequent referral types. The number of site plans referred has declined 18 percent while the number of area variances has remained consistent. The number of special use permits decreased 40 percent.
4. Six communities referred 18 Technical Reviews up from 13 in 2019.
5. In 2020, there were 119 class 1 referrals and 58 class 2 referrals. The number of class 2 referrals with potential to have county-wide or intermunicipal impact remained stable from 2019 to 2020; the number of class 1 referrals not likely to have county-wide or intermunicipal impacts declined by 36 percent from 2019 to 2020.
6. In 2020 2/3 of the class 2 administrative reviews (AR 2s) recommended for disapproval were related to a lot coverage, side, and/or lake/side setback area variances and 1/3 were for signage variances related to the size or number of signs.
7. The CPB voted to accept a total of 33 late referrals

Action on Referrals (added to Executive Summary)

1. The Board voted to recommend disapproval of 7 referrals, all use variances.
2. The Board voted to change the class of 2 referrals from class 1 to class 2 based on potential impacts along primary tourist corridors.
3. The Board voted to recommend approval with modification(s) for 3 referrals, two referrals had modification related to tourist corridor characteristics, one of these also has a modification related to water quality impacts. A third referral had two modifications related to minimizing potential impacts of invasive species and addressing current code violations.

Trends, Innovations, and Concerns

1. Local municipalities are encouraged to make sure their land use plans and zoning regulations for Commercial Solar Generation Facilities are suitable to guide siting and development of 100 to 1,000 acre developments.
2. Building on previous discussions of the Ontario County/CPB role in preparing for the climate crisis and creating physical and social infrastructure to make Ontario County an age friendly community, in May CPB members shared their observations of the lessons of the Covid-19 Pandemic.
3. In November, CPB had an extended discussion of the importance of local municipalities working with developers to create desirable character along primary tourist corridors as outlines in section 8.6 of the CPB By-laws and reflected in Board votes on certain referrals to change referral class from 1 to 2 and recommend approval with modifications.

The body of the CPB annual report also provides **resources links related to recent planning studies** includes Victor Access Management Plan, Naples and Port Gibson Historic Resource inventories, Manchester Yard Redevelopment Implementation Activities, Airport Master Plan **and useful guidelines and standards to minimize potential impacts** related to Commercial Electronic Variable Message Signs, static signs based on relationship of letter size to readability, lighting brightness and color, storm water, solar energy developments on agricultural lands, and applying Complete Street policies.

Board Motion: To submit the revised CPB annual report to the Ontario County Board of Supervisors. **Motion made by:** Steve Groet

Seconded by: Mike Woodruff

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

- **Reviewed By-laws** – Board member responsibilities: training & reports to local board, & areas of review
- **Member Recruiting activities** – interest from potential members to fill vacancies in T. Manchester and C. Canandaigua and to follow planned resignation in T. Bristol
- Clearing House Reviews –none
- Upcoming Training –
 - January 20, evening – Livingston County Battery Energy Storage
 - Planning related webinars from the Center for Creative Land Recycling **webinars are \$20 each**
 - **See link for webinar descriptions.**
 - https://www.eventbrite.com/e/creative-placemaking-leadership-webinars-registration-116926818261?aff=odeimcmailchimp&mc_cid=d80e8509ee&mc_eid=cb876cdee3
 - **February 16, 2-3 pm eastern:** Financing Creative Placemaking
 - **March 30, 2-3 pm eastern:** Economic development basics for artists, designers and makers
 - **April 20, 2-3 pm eastern:** Artists as social change agents
 - **May 11, 2-3 pm eastern:** Working with artists on creative placemaking
 - **July 13, 2-3 pm eastern:** History of Creative Placemaking in the United States Part 1
 - **July 27, 2-3 pm eastern:** History of Creative Placemaking in the United States Part 2
 - Also recorded Webinar from June 2020 on the relationship between downtown revitalization, creative placemaking, and brownfields [View the recording here.](#)

Adjournment: Being no further business for discussion, Vice-Chair Wink requested a motion to adjourn the 1/13/21 County Planning Board meeting. **Motion to adjourn made by** Glen Wilkes **seconded by** Bill Namestnik **Motion carried.** 1/13/21 CPB meeting adjourned at 8:35.

Respectfully submitted by Linda Phillips, Senior Planner