

**CHEMUNG COUNTY PLANNING BOARD**

**MEETING NOTES**

**APRIL 26, 2018**

Present:

Ronald Panosian, Chair  
Douglas Brackley  
Bo Manuel  
Anthony Pagano  
Henry Dalrymple  
Nicolette Wagoner, Staff  
Scott Shaw, Staff  
Nanette Moss, Staff

Excused:

Andrew Avery  
Joseph Peters  
Mary Jo Yunis  
Robert Lewis

Guests:

Tom Skebey, Code Enforcement, City of Elmira  
Chip LeValley, Code Enforcement, Town of Elmira  
Shawn Van Houten  
Shelly Rich, Arnot Realty  
Karl Schwesinger, Fagan Engineers  
Warren Howeler, Morning Times

1. Call to order
2. Approval of Meeting Notes
  - a. Motion made by Daniel Manuel, seconded by Anthony Pagano to approve the March 22, 2018 Meeting Notes as drafted. Members in favor, all; opposed, none. Motion carried.
3. Visitor Comments – There were no visitor comments. Visitors can comment as we review each referral.
4. Zoning Referrals

A. TOWN OF BIG FLATS – Approval of Site Plan Amendment – Arnot Realty

DISCUSSION: R. Panosian advised that Shelly Rich is here representing Arnot Realty for a proposed site plan amendment. N. Wagoner reported that the Arnot Mall, as part of its repositioning effort to provide services beyond traditional retail, is proposing to hold a seasonal farmers market at the west end of its property near the Olive Garden in a 115' x 250' tented area. The Mall has ample parking available. Arnot Realty will coordinate with the Health Department on portable toilets. Bergmann's engineering review recommended ADA-accessible parking spaces and requirements for electric, which Arnot is also coordinating. Shelly Rich advised that they are seeking final approval to move forward with applications with the anticipation of 20-30 vendors. The market will run on Fridays from June 8 through October 26 from 1:00-5:00 pm. N. Wagoner recommended approval. R. Panosian asked if the Board had any questions or comments; there being none, he called for a motion for approval of the proposed site plan amendment.

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MOTION: Made by Douglas Brackley, seconded by Henry Dalrymple, Anthony Pagano abstaining, recommending Town Planning Board approval of the proposed site plan amendment. Members in favor, all; opposed, none. Motion carried.

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B. TOWN OF BIG FLATS – Zoning Area Variance and Approval of Site Plan – Yunis-Welliver, Inc.

DISCUSSION: R. Panosian advised that Karl Schweisinger from Fagan Engineers was present to represent Yunis-Welliver, Inc. on this proposed parking lot expansion site plan for Wayfair and asked him to outline the proposal for the Board. Karl advised that approximately 1.5 years ago the owner sought approval to construct the parking lot. The owner is now seeking to expand the parking from 400 to 575 spaces. The initial plan proposed less than 50 percent lot coverage, but the revised plan with additional parking would result in approximately 60 percent coverage. N. Wagoner reported that the zoning area variance is for lot coverage and approval of the site plan. Karl's stated that although the proposed lot would exceed allowable coverage for this parcel, that Airport Corporate Park as a whole is underbuilt, and that a typical corporate park would likely have 60-70 percent lot coverage for commercial industrial uses. N. Wagoner recommended local determination on the proposed zoning area variance. R. Panosian asked if the Board had any questions or comments; there being none, he called for a motion recommending local determination on the proposed zoning area variance.

R. Panosian confirmed several points regarding the proposed site plan; notably, that the plan does not propose any changes to the driveway to and have no impact on Daniel Zenker Drive. K. Schweisinger stated that the driveway on the parking lots would not change. N. Wagoner agreed with the town engineer's comment that while the site plan includes 17 trees and code would require 97 trees, the applicant may strive to strike a balance on the landscaping plan. In addition, she encourages the applicant to coordinate with First Transit on employee transportation via the transit system. Such coordination could save the developer on the cost of future parking construction and maintenance and provide a primary or secondary means of transportation for employees. K. Schwesinger stated that Wayfair may hire up to 575 employees in two overlapping shifts. He also stated that the parking lot would not be any closer to the wetlands than it is currently after full buildout. The area behind the parking lots is the DeMets storm water basin. The engineering firm is studying the possibility of installing a grass swale with checked stone to handle the project's water. N. Wagoner recommended approval of the proposed site plan with comments that the applicant consider coordination with First Transit in the future. R. Panosian asked if the Board had any questions or comments; there being none, he called for a motion recommending the site plan with comments that the applicant consider coordination with First Transit. Karl added that they would be increasing the number of trees in the landscaping plan.

MOTION: Made by Anthony Pagano, seconded by Douglas Brackley, recommending local determination as the proposed zoning area variance would have no Countywide or inter-municipal impact. Members in favor, all; opposed, none. Motion carried.

MOTION: Made by Douglas Brackley, seconded by Anthony Pagano, recommending Town Planning Board approval of the proposed site plan along with comment that the applicant consider coordination with First Transit to accommodate employees wishing to utilize transit. Members in favor, all; opposed, none. Motion carried.

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C. TOWN OF BIG FLATS – Approval of Site Plan – Ferrario Realty NY, Inc.

DISCUSSION: R. Panosian advised that Karl Schweisinger from Fagan Engineers is representing Ferrario Realty NY, Inc. for approval of proposed site plan. N. Wagoner reported that Ferrario is proposing to construct a 20,000 square foot building between CR 64 and Interstate 86. He explained that the CCPB is discussing Parcel "A", while Parcel "B" shows proposed future development. N. Wagoner asked if Fagan Engineers will address the town engineer's comments regarding the zoning table, and asked if they were discussing storm water prevention with the county. K. Schwesinger stated that the applicant is in the process of doing both and that Fagan had performed infiltration testing and test pits,

which yielded anticipated results. N. Wagoner advised that the Town Planning Board would hold a public hearing on June 5. She noted comments submitted by Andrew Avery who asked how the project proposes intersection control at CR 64. He expressed concern about the location of two driveways (which are close together) and suggested a possible redesign of the existing and new roads. He also recommended removing all asphalt in the roadway that the County will be deeding to the applicant during Phase I. (The County owns the extension of Fisherville Road on which the applicant plans to construct a road in a future phase). Karl will contact A. Avery to follow up regarding the desired road redesign. The project does not propose changes to CR 64. N. Wagoner noted that her recommendation of approval would be contingent upon the conversation between Fagan and DPW, and that discussion regarding parking area display will be a separate conversation for the variance. N. Wagoner recommended approval of the site plan with A. Avery's comments regarding removal of asphalt at the extension of Fisherville Road. R. Panosian asked if the Board had any questions or comments; there being none, he called for a motion for approval of the proposed site plan with comments.

**MOTION:** Made by Henry Dalrymple, seconded by Daniel Manuel, Anthony Pagano abstaining, recommending Town Planning Board approval of the proposed site plan along with comments submitted by Andrew Avery regarding a redesign of existing and new roads in relation to the two entrance driveways, and removal of the asphalt at the extension of Fisherville Road. Members in favor, all; opposed, none. Motion carried.

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D. TOWN OF BIG FLATS – Zoning Area Variance – Ferrario Realty NY, Inc.

**DISCUSSION:** R. Panosian advised that Karl Schweisinger is representing Ferrario Realty NY, Inc. for the proposed zoning area variance. N. Wagoner reported that Ferrario is requesting relief from the Town zoning ordinance stating, "no vehicles offered for rent or sale should be placed, stored or parked within 15' of road right-of-way". She advised that the applicant is proposing placement of vehicles within 3' of the DOT right-of-way for visibility from I-86. She is concerned about the precedent that would set as nearby dealerships or businesses could apply for variances to have their own display areas off I-86. She added that it is a Town decision but that vehicles so close to the interstate may be distracting for drivers. Instead, Ferrario could follow the example of the Honda dealership with a sign on I-86, and orient their vehicles facing CR 64. Even though DOT may allow the display area, placement is contingent upon DOT allowing the applicant to remove a stand of trees to facilitate visibility of vehicles. D. Brackley noted that there is a cell tower planned nearby.

Even if the applicant receives permission to and removes the trees, the elevation of the area in question may make visibility of the cars problematic. K. Schweisinger noted that the billboard on the applicant's property would remain. N. Wagoner suggested that Ferrario could display cars on CR 64 and was advised that they are exploring this scenario. K. Schweisinger said the proposed display area is a significant distance from the road, about 70' (noting by comparison that cars on the Miracle Mile sit 5' off the edge of the pavement). N. Wagoner said that the applicant would need to show that they cannot achieve the benefits sought by another method that is feasible for the area variance. She does not think this necessarily passes that test; in addition, the alleged difficulty is self-created. N. Wagoner asked if the Board wished to recommend local determination with comments. R. Panosian asked if the Board had any questions or comments; there being none, he called for a motion for local determination with comments.

**MOTION:** Made by Daniel Manuel, seconded by Douglas Brackley, Anthony Pagano abstaining, recommending local determination as the proposed zoning area variance would have no Countywide or inter-municipal impact along with comments that the Town could be setting a precedent allowing placement of cars so close to I-86, potentially being of a distracting nature for drivers, and the project could compromise the aesthetics of the I-86 corridor if the applicant removes the existing stand of trees. Members in favor, all; opposed, none. Motion carried.

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E. TOWN OF BIG FLATS – Approval of Site Plan – Dandy Mini Marts, Inc.

**DISCUSSION:** R. Panosian advised that Dandy Mini Mart is requesting site plan approval for a project that the CCPB has previously reviewed. N. Wagoner said the County DPW had approved the driveway permits in 2014 and that this plan does not propose any change to the driveways. CCPB asks that the applicant confirm with County DPW that those approvals still apply. Dandy is proposing construction of a 7,000 square foot convenience mart with 11 fueling stations and a car wash. The proposed use is as-of-right. N. Wagoner noted that drivers making a left-hand turn from the westernmost driveway to EB CR 64 would have to cross a median. Her preference would be to only allow EB turns from the easternmost driveway. H. Dalrymple said that the Dandy on SR 352 has a sign on one of the driveways prohibiting left-hand turns from one of its entrance/exits and suggested similar signage for this site. N. Wagoner added that when the county reconstructed CR 64 several years ago, the project considered the Dandy in its plans. The proposed signage is as-of-right. N. Wagoner recommended approval of the proposed site plan with the comment that petitioner check with county DPW about the driveway permits and SWPPP. R. Panosian asked if the Board had any questions or comments; there being none, he called for a motion recommending site plan approval with N. Wagoner's comments that left turns onto EB CR 64 only be allowed from the easternmost driveway and that the applicant will confirm that the previous driveway approvals are still in effect.

**MOTION:** Made by Anthony Pagano, seconded by Henry Dalrymple, recommending Town Planning Board approval of the proposed site plan with comment that left turns onto EB CR 64 only be allowed from the easternmost driveway and that the applicant will confirm that the previous driveway approvals are still in effect. Members in favor, all; opposed, none. Motion carried.

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F. TOWN OF BIG FLATS – Approval of Site Plan – Parker

**DISCUSSION:** R. Panosian advised that petitioner Randy Parker seeks approval of a proposed site plan for property located on CR 64. CCPB reviewed this project at its May 2017 meeting. N. Wagoner reported that petitioner wishes to add additional products and activities to a farmers market at this site (the property has been in use as a farmers market for several years). R. Panosian noted that the applicant should coordinate with DPW to see if the project requires a work permit. N. Wagoner recommended approval. R. Panosian asked if the Board had any questions or comments; there being none, he called for a motion for approval with comment that petitioner contact DPW to inquire about a highway work permit.

**MOTION:** Made by Daniel Manuel, seconded by Henry Dalrymple, recommending Town Planning Board approval with the comment that the petitioner contact Chemung County DPW to inquire about a highway work permit. Members in favor, all; opposed, none. Motion carried.

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G. TOWN OF BIG FLATS – Approval of Site Plan – Benedict

**DISCUSSION:** R. Panosian stated that petitioner is seeking approval of a proposed site plan for a worship center. N. Wagoner reported that property is located in the Town of Big Flats near the boundary with the Town of Horseheads in a Rural zoning district. The petitioner owns 70 acres of land and proposes to use a portion of it to develop a 2,100 square feet worship center and associated uses such as a labyrinth and walking paths. N. Wagoner advised that the Town Planning Board had determined that the proposed use is as-of-right. The Zoning Board of Appeals discussed it in January and the Town Planning Board will hold a public hearing on May 1, after which it will discuss approval. N. Wagoner recommended approval. R. Panosian commented that the town should refer this to the Town of Horseheads if it has not already. R. Panosian asked if the Board had any questions or comments; there being none, he called for a motion recommending Town Planning Board approval with the comment that the town refer the site plan to the Town of Horseheads if it has not already done so.

**MOTION:** Made by Henry Dalrymple, seconded by Douglas Brackley, recommending Town Planning Board approval with the comment that the Town should refer the site plan to the Town of Horseheads if it has not already. Members in favor, all; opposed, none. Motion carried.

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H. CITY OF ELMIRA – Zoning Use Variance – Capriotti Properties

**DISCUSSION:** R. Panosian advised that Code Enforcement Officer Tom Skebey and petitioner Jim Capriotti were present. J. Capriotti is seeking a use variance for the Foster House on West Water Street. N. Wagoner reported that the property had most recently been a medical office (and is now vacant), and that the use variance would essentially extend non-conforming use of the property. J. Capriotti proposes a conversion of the property into nine apartments. The site has sufficient off-street parking. Although the proposed does not conform to existing zoning, the city will be revising its zoning in the near-term to reflect its comprehensive plan. N. Wagoner feels that this project reflects the spirit of the comprehensive plan as it is an appropriate use for the building, and recommended approval. R. Panosian asked if the Board had any questions or comments; there being none, he called for a motion for approval.

**MOTION:** Made by Henry Dalrymple, seconded by Douglas Brackley, Anthony Pagano abstaining, recommending City of Elmira’s Zoning Board of Appeals approval. Members in favor, all; opposed, none. Motion carried.

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I. TOWN OF SOUTHPORT – Zoning Area Variance – Houck

**DISCUSSION:** R. Panosian advised that petitioner is requesting a zoning area variance to place an accessory structure on his property. N. Wagoner reported that applicant wishes to erect a 12’x24’ shed on the side of his property. Petitioner has two front yards and faces both Sunset Rd. and SR 14. He needs the variance because the property does not have a back yard. The Town had no comments regarding the proposal. N. Wagoner recommended local determination. R. Panosian asked if the Board had any questions or comments; there being none, he called for a motion for local determination.

**MOTION:** Made by Anthony Pagano, seconded by Daniel Manuel, recommending local determination as the proposed zoning area variance would have no Countywide or inter-municipal impact. Members in favor, all; opposed, none. Motion carried.

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J. TOWN OF SOUTHPORT – Amendment to Town Code – Town of Southport

**DISCUSSION:** R. Panosian advised that the Town has proposed an amendment to the Town Code. N. Wagoner reported that this was a request to correct a typographical error in the zoning ordinance. N. Wagoner recommended approval. R. Panosian asked if the Board had any questions or comments; there being none, he called for a motion for approval of the proposed amendment to the Town Code.

**MOTION:** Made by Douglas Brackley, seconded by Anthony Pagano, recommending Town approval of the proposed amendment to the Town Code. Members in favor, all; opposed, none. Motion carried.

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K. TOWN OF ELMIRA – Zoning Use Variance – Van Houten

**DISCUSSION:** R. Panosian advised that Code Enforcement Officer Fred (Chip) LeValley and petitioner Shawn Van Houten were present. Shawn Van Houten stated that if he were to be granted the use variance he would return for site plan approval. N. Wagoner noted that the applicant has proposed establishing and operating a drive-through in the Town at the intersection of Lowman Road and Breesport-North Chemung Road. She requested additional information about the circulation of the driveway when he returns for site plan approval. Shawn noted that he will install curbs for in and out traffic. He constructed a building on the parcel last year. N. Wagoner asked if he would consider operating the business with only the south driveway rather than having two, including one so close to the intersection. Shawn indicated that he would like to have two driveways. N. Wagoner advised that he would need to coordinate with the county’s Department of Public Works to obtain a highway work permit. N. Wagoner asked if there was any other viable use for this property and Shawn advised that the Zoning Board of Appeals asked him to show that as well. He believes that the land cannot be used for another viable use. N. Wagoner said that the ZBA public hearing is scheduled for May

22 and Town Planning Board public hearing is June 4, and recommended local determination. R. Panosian asked if the Board had any questions or comments; there being none, he called for a motion for local determination.

MOTION: Made by Anthony Pagano, seconded by Daniel Manuel, recommending local determination as the proposed zoning use variance would have no Countywide or inter-municipal impact. Members in favor, all; opposed, none. Motion carried.

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L. TOWN OF ASHLAND – *Review of Proposed Local Law* – Town of Ashland

DISCUSSION: R. Panosian advised that the Town has requested review of its proposed local law regarding solar facilities. N. Wagoner reported that the Town has been working on this law for over a year, and that in that time they have written a comprehensive ordinance that includes a decommissioning requirement. The Town has considered a variety of situations with appropriate requirements. Unlike other solar facility ordinances that CCPB has reviewed, Ashland’s has more detail, featuring three different tiers of development. Scott Shaw noted that the town’s moratorium on solar will expire in June. N. Wagoner recommended approval. R. Panosian asked if the Board had any questions or comments; there being none, he called for a motion for approval.

MOTION: Made by Douglas Brackley, seconded by Daniel Manuel, recommending Town approval of the proposed local law. Members in favor, all; opposed, none. Motion carried.

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M. TOWN OF ASHLAND – *Review of Proposed Comprehensive Plan* – Town of Ashland

DISCUSSION: R. Panosian advised that the Town has requested review of its proposed comprehensive plan. N. Wagoner reported that this is the Town of Ashland’s first comprehensive plan and that it includes a vision, goals and funding sources. The Planning Department would recommend the plan include STEG (Southern Tier Economic Growth) as a stakeholder, and would like to assist the Town as needed during implementation. We recommend that they revisit the plan every few months to check their progress. N. Wagoner recommended approval. R. Panosian asked if the Board had any questions or comments; there being none, he called for a motion for approval of the comprehensive plan.

MOTION: Made by Anthony Pagano, seconded by Daniel Manuel, recommending Town approval of the proposed comprehensive plan. Members in favor, all; opposed, none. Motion carried.

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5. Visitors Comments: None.

Planning Commissioner’s Report:

Any Board members interested in bringing the CCPB materials on their iPad or laptop to our meetings may inform Planning Department staff, as the department is hoping to cut down on copying expenses and waste.

Meeting adjourned at 3:50 p.m.