

**CHEMUNG COUNTY PLANNING BOARD MEETING
DISCUSSION/MOTIONS
MARCH 24, 2016**

A. TOWN OF BIG FLATS – Approval of Site Plan – DeMark

DISCUSSION: Olthof reported that the property is located on the west side of Chambers Road almost directly across from the primary entrance into the Arnot Mall. Petitioner wishes to establish an office operation for a landscaping business. This is a building that has had prior uses in it. There is no change in the actual structure as they are proposing even though it comes as site plan approval. It is a Business Regional zone. The type of business you are talking about is an allowable use. It is subject to approval of any modification of the site. One additional activity though that has raised a bit of a question I think primarily with Andy Avery related to the outdoor storage that they are proposing, particularly in the case of bark mulch. Olthof asked A. Avery to elaborate. A. Avery said he was concerned that it is not an appropriate use in this type of commercial area because that material would track onto the road. D. Brackley asked about drainage, run-off. A. Avery said he checked with the Town. Town of Big Flats Building Inspector Tim Gilbert agrees that it is not appropriate but that it is not prohibited in the current zoning that they have there but that he would share the concerns with the Town Planning Board. D. Brackley asked about the DEC standpoint regarding run-off. They use dyes. He is under the assumption that they needed some type of proper drainage when you store mulch. A. Avery said he has seen mulch stored all over the place, but usually it is not right in what is one of the busiest roads in Chemung County. Olthof asked if petitioner would need approval from A. Avery's department and added that petitioner is not really modifying the entryway. A. Avery said he would have to see a maintenance plan. What will happen to me as the road owner, the county is the road owner, is that NYSDEC will come to us and say clean your road. I would say we didn't make the mess and they would say we don't care, it's your road. I would have to see a maintenance agreement that they will install devices that will keep anything from tracking onto the county road, and if anything does track onto the county road, it would be cleaned up daily. Without that I wouldn't recommend allowing that kind of material storage there. Regardless, I don't like it. I don't think it's appropriate. Olthof said in that kind of a case it would be a recommendation that the Town not accept or not approve other than as a condition that it must be submitted that this would be contained and not present hazardous to county property. A. Avery said words are meaningless because they could say yes they would clean it up. But the simple fact is I would almost want to treat it as construction entrance with the material that would be going in and out. They would have to have some kind of mechanical system that keeps the debris from getting onto the county road. Whether they want to put that kind of investment into what I was reading seems to be temporary anyway, I am not sure they would want to do that. D. Brackley said it would be seasonal storage? A. Avery said that they said it would be short term. They are just trying to grow the business and eventually it wouldn't be there. R. Panosian asked if this were located at the Express Mart to which A. Avery said it was located at the old gas station, the one where they took out the

old tanks. The new one is this one that you see right here. D. Brackley said it's the one right in between the current and here. R. Panosian asked if it were the vacant Sugar Creek store site to which A. Avery replied yes. M. Yunis asked if this was a short term lease situation to which Olthof answered that the owner was Tim Bruner and the applicant was Brian DeMark. A. Avery said this is just the containment on the mulch itself, but it doesn't keep the trucks from tracking it on or off. This may resolve some of the drainage concerns. Olthof said it does not make clear if it is bag mulch or loose mulch. A. Avery said looking at these bins, it would be loose mulch. It is uncovered. In comments back to the Town Board that as far as County Public Works is concerned we would need a signed maintenance agreement in advance of any approval. It is certainly not my job to prohibit but something that affects the county's interests. Olthof said it is a concern. That would be a recommendation either that the application not be approved unless sufficient evidence is presented that that concern has been addressed or just basically a rejection recommending that they reject the application. R. Panosian asked if you would tell them why, what our concerns are. Olthof replied saying I think you'd really need to. You'd want to set out what are the county concerns that would lead to that recommendation and that is it. There is not sufficient showing of information that this would not present a hazard to which A. Avery added that it would not prevent tracking onto Chambers Road. Olthof said I do not know about traffic itself, entry, egress. A. Avery said he is not worried about that. I think that's going to be minimal. D. Brackley said that should have been less than a gas station. A. Avery said to me it's the material. If he just wanted to use this for an office for his business, then it's great that a building is being used. D. Brackley asked should that be noted that that is not the concern, that the concern is only the material to which Olthof said yes. R. Panosian asked if he was hearing that the board is leaning toward recommending not approving it and with the following concerns, for the following reasons. A. Avery said it is something we need to decide. At the very least I need a maintenance agreement that keeps anything from being tracked. D. Brackley said we could put more of a positive spin on it saying we could recommend it if the maintenance agreement was in place. M. Yunis said you could a local determination but with the comments that a maintenance agreement needs to be in place with the county. Olthof said it's hard though if there's no direct permitting purview you have, your only real way to get the Town to. . . . A. Avery said this is really a zoning issue that's going to affect County Public Works. If it was a driveway entrance issue, we would have control. M. Yunis said maybe you do want a denial so they would have to have a super majority to which Olthof added or get the information from the applicant as a condition. R. Panosian asked if someone would like to outline a recommendation not to approve with comments and then we can talk about what the comments are? M. Yunis said so you want a motion to, Olthof recommend denial on the grounds that as proposed the storage of bulk mulch on the site could present a maintenance liability for the county government on Chambers Road. R. Panosian asked if we should give them the suggested remedy which is a signed maintenance agreement with the county. A. Avery continued, maintenance agreement and a plan to control the material so it doesn't leave the site, unless it's on the back of the truck.

MOTION: Made by Mary Jo Yunis, seconded by Henry Dalrymple, recommending denial on the grounds that the applicant's proposed storage of mulch on the site could create a maintenance liability for the County government on a high traffic county road. The Board noted that this concern could be alleviated if the applicant secures a maintenance agreement with the County's Department of Public Works to ensure that all mulch materials will not enter the County's right-of-way. Members in favor, all; opposed, none. Motion carried.

B. TOWN OF HORSEHEADS – Approval of Site Plan and Zoning Area Variance – H.E.P. Materials Corp.

DISCUSSION: Olthof reported that the parcel is located on the Miracle Mile/Corning Road in a Business zoning district and Miracle Mile Overlay Zone District. Petitioner is seeking to construct as originally proposed a 6,000 square foot pole barn for storage that would be an addition to one of the existing buildings on the rear side of the property. As originally submitted, the footprint of the building would actually encroach on the 25' rear yard setback that is specified under the Town zoning law. Subsequently, it went to the Town of Horseheads Zoning Board of Appeals which made a determination where they made an agreement with H.E.P. Materials Corp. that the size of the building be reduced by 1,000 square feet that would reduce the encroachment area and therefore they felt that that was sufficient grounds. Petitioner John Krueger said that there was concern that we could not get around the rear of the building. If you look at it on a map and actually go out and put a tape on the property, the railroad tracks are directly behind my property line. On a map it appears as though the property line is at the top of the slope, and in reality on one side of the proposed structure it encroaches over the edge of it. R. Panosian asked with the revision what is the encroachment now, do we know to which John Krueger said now it is 21' at its closest point. It's on an angle. So on the other end of the building it would be 26'. Mary Jo Yunis said that's the last page where they are showing. It's 11' at one end and 16' at the other, so it becomes 26' and 21' to which Olthof said the building is just corresponding reduction. We don't see any issue as far as the county that relates to this. There is no change in driveway entrance that would affect DOT. They have asked that they keep them apprised of the project more as an informational so they are aware of what's on the property. From our vantage point, provided that you've satisfied their criteria for approval of area variances, from a staff standpoint, we see no problem as proposed. We would recommend local determination. In effect they've almost made their determination at this point. R. Panosian asked if the railroad need to have any input or have they had input to which Olthof said he did not believe so and added that they would not need to as long as you are not affecting their right-of-way directly.

MOTION: Made by Mary Jo Yunis, seconded by Douglas Brackley, recommending local determination since no Countywide or intercommunity interests would be directly affected by the proposed zoning area variance or site plan. Members in favor, all; opposed, none. Motion carried.

C. TOWN OF CATLIN – Zoning Map Amendment – Sempler -- ADD-ON
ITEM

DISCUSSION: Olthof reported that the property is located on SR 414 and in an Agriculture Residential zoning district. There is a golf course that exists at that location. It has been there years prior to zoning. It is a pre-existing non-conforming use. Petitioner wishes to take a portion of the existing structure at the golf course building to add an ice cream parlor. Petitioner has sought permission from the Town. This would be an addition to the non-conformity of the property. It is not currently an allowed use in that zone. On review of the application, the Town Planning Board has made a recommendation that the Town Board consider a zoning amendment that would amend the map to make this area and actually four adjoining properties, rezone them to a Neighborhood Business zoning classification. At that point if that happens, then the use would be an allowable use in that zone. The only thing it would need then would be approval of a site plan by the Town Planning Board, some subsequent action by them. The only concern this really seemed to present at first blush was the possibility if it was a single parcel that potential it could conceivably be a spot zoning issue, single owner benefitting from the zoning change. The fact though that the Town Planning Board has recommended that lends a little bit of its strength and the fact that it added some properties. They've actually talked with the property owners adjoining about their willingness to be included in a rezoned area. That kind of deflates any potential challenge that might ever be raised about the spot zoning. Otherwise, we really don't see any impact to speak of on county or intercommunity interests at all in this. I think it's really more of a question of whether they consider to be acceptable for their long range plan for the community. This would be a way to go ahead and do it and accommodate what the applicant is trying to do. R. Panosian noted that we are not being asked to consider the specific ice cream store. Olthof said not as a site plan. It is really the question of the map amendment is what we're looking at right at this stage. It would probably be re-referred later for a site plan approval. M. Yunis asked if this would be a local determination to which Olthof replied yes. He does not see any broader impacts. R. Panosian noted that there is a recommendation for a local determination.

MOTION: Made by Daniel Manuel, seconded by Douglas Brackley, recommending local determination since no Countywide or intercommunity interests would be directly affected by the proposed zoning map amendment. Members in favor, all; opposed, none. Motion carried.

D. CITY OF ELMIRA –Zoning Area Variance – Sabahat and Khan -- ADD-ON ITEM

DISCUSSION: Olthof reported that the property is located at the corner of William and Market Streets across from the street from the county's Criminal Justice building. We did see this one other time back in 2013. The applicants at that point were talking about kind of a mixed use of the property where they were talking a combination of residential apartments, business uses on the first floor of the building. The main question that we have related to the number of uses,

the density of uses related to adequate parking. In that zoning district, it's a Central Business District zone in which under the City's existing ordinance there's no specific number of required parking areas for residential per unit. But it was a question that occurred to us and we recommended at that time that the applicants deal with neighboring properties to make sure there would be adequate off-street parking both for customers tenants in that building. That was a request for a variance at that time. Also some pre-existing non-conformity of the building as far as frontage and minimum size of the acreage. What has happened since then, they are coming back now basically because they have lost one to two business occupants on the first floor. They want to infill now with additional residential apartments on that floor. They are talking four of them at this time and the possibility of a fifth in the future. The actual occupancy of the building isn't so much the issue but again it is a change in what is still a non-conforming property. So what they require is action again by the City's Zoning Board of Appeals on the variance request basically to allow them to go ahead and make internal change that they are proposing. The one that is a bit different this time around is apparently they refer to the fact that they now own two parking areas located on Fox Street located south of there to accommodate residents in the building. Whether it's business or residents in the building, as far as impacts on county interests or any impact on the county facilities, courthouse and so forth, there's nothing obvious that we see that would result from what they are proposing. As far as the question of the variance, I would say that our position would be just as it was in 2013; it is a matter for local determination. The one other factor that it seems like the City would want to take into consideration though is whatever the new proposed master plan concept is for that particular neighborhood, whether that is encouraged for that type of residential infill or. . . .

A. Avery asked, deriving from your last statement, from what I've seen with Refresh Elmira, Elmira Focus Group, they are looking at having more mixed use commercial residential and this is going in the opposite direction? Is that the direction that they want to go? I guess that's a local determination. Is there sufficient parking in the lots they own to handle the demand for parking created those additional units? Olthof said if you are talking four units, how many cars per unit, they don't actually provide any look at the parking area that they are talking about other than to say they will have ample parking. M. Yunis asked didn't the City come up with some requirement that you provide so much parking for residential units and that was the issue next door that kind of killed that is because there was no parking available? Olthof said he was trying to recall what it was. You have off-street parking requirement seems if you are abutting a residential zone under the current City ordinance. I can't remember the specific wording of that. The building here that was our chief concern about it, within 500' that there would be the ability to accommodate that. R. Panosian said it was our concern but I don't think that would have stopped them. I thought they had the right to proceed and they just chose not to. M. Yunis said she thought they couldn't because the city wasn't going to let them because they had an issue with the parking but I know it went back and forth for a while. Olthof said it did back and forth with that. They were trying to negotiate with some of the property owners across the street in that case, in that building. In this case how big is the parking that they are talking about? We don't know ourselves here because they haven't provided that information. A. Avery asked if we could recommend local

determination with comment that they confirm that there is sufficient parking for the rest of the units. Olthof concurred. It reinforces what we recommended the last time and just say that again, it's still a concern.

MOTION: Made by A. Avery, seconded by Mary Jo Yunis, recommending local determination since no Countywide or intercommunity interests would be directly affected by the proposed site plan. The Board further recommended that the ZBA secure confirmation from the applicant that sufficient parking is available to handle the number of units. Members in favor, all; opposed, none. Motion carried.

**CHEMUNG COUNTY PLANNING BOARD MEETING
ATTENDANCE
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Members:

**Ronald Panosian
Andrew Avery
Joseph Peters
Bo Manuel
Mary Jo Yunis
Douglas Brackley
Henry Dalrymple**

Others:

**Randy Olthof, Pl. Commis.,
Scott Shaw Associate Pl. I
Nanette Moss, Secretary
John Krueger, H.E.P.
Materials Corp., Pet., T. of
Big Flats**

Absent:

**Robert Lewis
Anthony Pagano**