

**CHEMUNG COUNTY PLANNING BOARD MEETING  
DISCUSSION/MOTIONS  
MAY 25, 2017**

**A. TOWN OF SOUTHPORT – Approval of Site Plan – NYSEG/LaBella Assocs.**

**DISCUSSION:** R. Olthof reported that this is for modernization of a site currently used by NYSEG. The equipment and the structures on the property are owned by NYSEG. The land itself is owned by Corning Natural Gas. It's an area that's set back from Mt. Zoar Road. I am not sure of the actual length of that, but it goes by a number of properties along an unimproved drive access way. They wish to raze six buildings which are pretty derelict looking on the property. They would be removing six buildings and removing their old equipment. Instead of that they'd be building two new buildings, plus one smaller shed and a few other improvements both to the access driveway, some security perimeter fencing that go around their buildings on the property, and some storm water improvements. A. Avery said that he sent an e-mail responding to them this morning. R. Olthof said he mentioned three permits needed for that. As far as the status of this, the treatment of it, the Town Planning Board has scheduled a public hearing on this for June 5. To us it looks like it is all fairly well contained. To the extent that there is any potential drainage improvements in the property and maybe improvement in maybe security of the site, it sounds like it would be favorable action by the Town to approve it. We don't see any other specific concerns that are raised by them. A. Avery said just to let them know that it will require a highway permit from the county related to the intersection of Mt. Zoar and whenever they're going to make potential improvements. They're right down here working in the right-of-way. R. Olthof said I think that they are generally aware of the need for that. They will also need in addition to approval of their site plan, they have also at least as their current proposal their perimeter fence exceeds allowable height for property fences in Residence 1 zoning districts. This is a Residential district, so they'll also require Town Zoning Board of Appeals' approval of that item first and then approval of the site plan. He said he is more inclined to consider that a matter for local determination other than the understanding that the county highway permit will be needed for this.

**MOTION:** Made by Andrew Avery, seconded by Robert Lewis recommending local determination since the site plan approval sought would have no foreseeable impact upon Countywide or

intercommunity interests. Members in favor, all; opposed, none. Motion carried.

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**B. VILLAGE OF HORSEHEADS – Special Use Permit - Rhodes**

**DISCUSSION:** R. Olthof reported that the structure is the former Domino's Pizza building. It is a fairly small building on a parcel just about .17-acre in size. The property is located in an Industrial M1 zone. Petitioner wants to set up a new southern cuisine restaurant called Poppin' Charlie's Southern Cuisine. To do that it will require approval of a special use permit by the Village Trustees in the Village of Horseheads. You all have a photo of the current vacant building on the property, as well as an aerial photo showing the basic location of the property. This has been reviewed both by Village Planning Board and NYSDOT-6. In the case of NYSDOT-6 they had no concerns about potential impacts on their roadway. As far as the Village Planning Board, they recommended approval of the special use permit by the Village Trustees. It is worth noting apparently that prior to this point even though there had been a food service building there they were there without the special use permit previously at Domino's Pizza. This basically legalizes the operation that will be there now. There's no off-site effects. It looks like fairly limited parking. We are not sure how many parking spaces are available for customers, perhaps six or seven customers. Property owner Mike LeRose said there were about seven to which R. Olthof asked if this was mostly eat-in, take-out to which LeRose said it was both. R. Olthof said there would be a certain amount in and out at lunch time. There are no other off-site concerns we can see here, any limitations. He asked A. Avery if there was anything that occurred to him that would be applicable to this to which A. Avery said there was nothing. R. Olthof said on the basis of it and the fact that we don't see any adverse impacts, we would recommend our Board's concurrence with the favorable recommendation made by the Village Planning Board, subject to any additional conditions that the Village Trustees might consider warranted. R. Panosian asked if the Board had any discussion, questions or comments to which there were none.

**MOTION:** Made by Douglas Brackley, seconded by Robert Lewis, Ronald Panosian abstaining, Anthony Pagano abstaining, concurring with Village of Horseheads Planning Board's favorable recommendation, subject to any additional conditions that the Village of Horseheads Trustees might consider warranted. Members in favor, all; opposed, none. Motion carried.

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**C. VILLAGE OF HORSEHEADS – Zoning Area Variance – St. Pierre**

**DISCUSSION:** R. Olthof reported that property is located in a Residential 1 zoning district on the west side of the road. Petitioner is taking care of an elderly relative. They would like to put on an addition on the front of their home plus a deck that would allow improved handicapped access primarily to accommodate the older family member with the handicap. It is about a 120 square foot addition. The problem presented with that is that there is a minimum 30' front yard setback required in that zone, and they would be over it by about seven feet. There are no discernable impact we see. This is kind of right across the road I think from Jubilee plaza parking lot. It is kind of a transitional area anyway in that length of the road. The Village of Horseheads Planning Board has reviewed this and they've recommended Village Zoning Board of Appeals approval. We would be inclined to recommend local determination on this. R. Panosian said it is DOT State Route 14. R. Olthof said they have not indicated any interest or concern over that. R. Panosian asked if R. Olthof would be recommending local determination to which R. Olthof said yes.

**MOTION:** Made by Anthony Pagano, seconded by Douglas Brackley recommending local determination since the zoning area variance would have no foreseeable impact upon Countywide or intercommunity interests. Members in favor, all; opposed, none. Motion carried.

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**D. TOWN OF HORSEHEADS – Zoning Map Amendment – Ruger**

**DISCUSSION:** R. Panosian noted that Town of Horseheads Code Enforcement Officer Tom Skebey is here for this referral. R. Olthof reported that the property is located on the Old Ithaca Road. I believe technically it is in two zones—Residence A zone and Agricultural zone. Skebey confirmed it. R. Olthof noted that it is bisected. The property is almost four acres in size. Petitioner is seeking approval by the Town Board for approval of a zoning change, a map amendment for the property that would change it from its present Residence A classification to a Neighborhood Service zone with the idea that ultimately I think that the hope is to open a restaurant on the site with bakery and bar. This is the longer range objective of the applicant with the idea that this is suitable for that kind of a business and service use in the town. There is no specific site plan. This hasn't been sent us as a site plan approval, so it really just involves

the rezoning. The history on this is that previously it was recommended wanting to change from Residence A to Business. Skebey said the Town Planning Board did not give favorable recommendation for that, so he came back with a different plan for Neighborhood Service. R. Panosian asked Skebey if there were houses on either side across the street. It is the old Jerlando's property. Across from there it is zoned Neighborhood Service. What the Neighborhood Service does is limit each development to one acre. The front setback has to be grass so it is less of an impact, more of a neighborhood use. More grass, more green space. Limited to one acre parcel they could develop. They could develop numerous ones, but it is less intrusive than the Business zone. The Town Planning Board voted four to three recommending it. R. Olthof asked if there had been more discussion by the Town Planning Board as to why they supported the change, they just thought it was desirable to which Skebey replied that Neighborhood Service is more desirable than the Business zone. A Business zone allows automotive sales and repair, and gas pumps. In Neighborhood Service it doesn't. Because of the residents around there, yes there was a scattering of business, but it didn't fit, because we figured there was going to be less traffic on that road with the Connector Road going in. The applicant was saying there was going to be more traffic and more business, and we didn't see that happening even though that is a well-travelled road. We see it being less traveled when the Connector Road goes in. It is less intrusive to the neighborhood and the neighbors. R. Olthof noted that with a working concept though right now, does the restaurant use seem to be what he is doing, to which Skebey said as long as it is a permitted use in the zone. He added that the applicant did not give any particulars. He also noted that it will be back for site plan review and you will see it too when he has a definite plan. R. Olthof said we have no issues with the proposed zoning map amendment provided that the Town Board considers this to be consistent with the long range plan for the Town and there's no reason we would object to it, I think you can either consider local determination or you can just concur with the Town Planning Board's recommendation for approval of the zoning map amendment.

**MOTION:** Made by Andrew Avery, seconded by Robert Lewis, recommending local determination since the zoning map amendment sought would have no foreseeable impact upon Countywide or intercommunity interests. Members in favor, all; opposed, none. Motion carried.

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**E. TOWN OF HORSEHEADS – Site Plan Amendment – Glad Tidings Church**

**DISCUSSION:** R. Olthof reported that this is a larger parcel. There is the existing church on the property. It is a fairly large expansion not only of the church facility, the structure, but also the parking area with the idea of the potential new entrance onto the state roadway as well. Property is located in an Agricultural/Residence “A” zoning district on the property consisting of seven acres on the south side of State Route 223. You have a copy of the basic working site plan for the church. The only other significant things here that we have is 207 parking spaces to which Fagan Engineers Engineer Tom Dobrydney advised that the total proposed is 223. That main parking area is a total of 207. So there’s some additional parking out to the west as well. R. Olthof asked if it was new additional parking to which Dobrydney advised that it was existing parking. R. Olthof said there is a fair area covered on this. He asked if this is subject to approval of a storm water permit for the expansion that we are looking at to which Dobrydney answered yes. R. Olthof said we have again routed this to NYSDOT-6. They think that the actual traffic generation is not particularly an issue related to them. They are going to be concerned about things like ultimately the actual design of the driveway. I think there will be an addition. Will it be one-way, two-way. How is it going to be striped and so forth. So that will necessitate some further dialogue to get their permit approval for any drive entrance. In terms of any comments from the Town on this, the only information we have is a public hearing set on it for June 7. Is there any additional information Tom to which Skebey said there is no public hearing. It will go one more time in front of the Town Planning Board. It might be for additional approval of a storm water permit. R. Olthof asked with regard to the storm water was there any impacts related to Newtown Creek to which Skebey noted that it requires we do a Letter of Map Amendment because the flood maps are wrong for that area. Based on elevation, we will do it to get it out of the flood plain. R. Olthof asked if it was a Letter of Map Revision to which Skebey replied yes. R. Panosian asked A. Avery if he were looking for clarification on the entrance to which A. Avery said this shows two existing drives and a possible new alignment, but that would eliminate what would be the middle drive to which Dobrydney answered that their intent as of today is to propose all three to NYSDOT-6. A. Avery said he would not want that if it was on a county route to which Dobrydney said that was their intent and added that they were going to work with NYSDOT-6 and see what middle ground that they can find. A. Avery said for that many they are too close. That is NYSDOT’s call. R.

Panosian asked if R. Olthof had anything else to add to which R. Olthof replied that we have no specific objection we have on this. He added that it will be subject to approval of the SWPPP, NYSDOT-6's approval of entrance onto the state roadway plus the successful approval of the LOMA that would be involved in this. Other than that it seems to be an acceptable development of the site. It fits the zoning classifications. We have no objection. R. Panosian asked R. Olthof if he would be recommending local determination or a reason to approve to which R. Olthof advised he would almost recommend approval subject to approval of the various applicable regulatory approvals and any other conditions that the Town Planning Board considers warranted. A. Avery added, would this be along with storm water approval to which R. Olthof concurred. R. Panosian asked if anyone wished to make a motion for approval with comments, DOT, local Planning Board approvals and storm water approvals.

**MOTION:** Made by Robert Lewis, seconded Douglas Brackley, Anthony Pagano abstaining, recommending Town Planning Board approval of site plan amendment along with comments that approvals are received from NYSDOT, Town Planning Board, and Storm Water Pollution Prevention Permit approvals. Members in favor, all; opposed, none. Motion carried.

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#### **F. CITY OF ELMIRA – Zoning Use Variance – Hughes**

**DISCUSSION:** R. Olthof reported that property is currently located in a Residence A single family zoning district. Property is located on W. First Street between Foster Avenue and Hoffman Street. This is a single family zoning district. The purchaser of the property is seeking approval by the City's Zoning Board of Appeals of a use variance to allow. The property modified over time under one or another circumstance so that it's basically designed for use as at a least two-family if not more and asked petitioner Andrew Hughes if that was accurate to which he replied yes. Hughes noted that the property started out as a home with a beauty parlor in there. They split up the utilities and then they turned it into a two-family illegally. There was a fire in the back portion. We have 27 units in Elmira. We were approached. We were doing a renovation on the same block, and we were approached by the current owner to see if we would be interested in purchasing and renovating this building. From a financial standpoint it only makes sense if it was two units, not if it was redone as one, just because the current state of the utilities and so on. So, we came to you to see if that would be feasible to go

forward with that. He said he believes that there is more than 50 percent of the buildings in that block are multi-family, so it does not really change the make-up of that. R. Olthof said the only question that arises in terms of impacts, noting that he saw no county wide or inter-community interests with a variance request. The one issue that would occur to us is like off-street parking, is there sufficient room really? The worry would be that approval of that kind of variance for that property would lead to a string of others on a fairly congested street. Hughes said that there is a driveway that would allow for two vehicles to park in there, and then there's obviously room on the street for another car without negatively impacting that neighborhood. A. Avery asked Skebey, with the fire damage with this half, would this still be grandfathered or would it have to provide two separate parking spaces where they could go independently of each other. Skebey said he hadn't seen how much the place was damaged and asked Hughes who advised that it wasn't a significant fire and explained that they had a back laundry room that actually he planned to take off. It was a porch that they finished off and put washer and dryer in there, and that is the section that burned. Skebey said he wasn't sure it kicks in. R. Olthof said the one other comment we would make would be that technically the appellant would normally be the current owner of record rather than purchaser. I think that it is understood that the owner is basically seeking the variance. Skebey said it sounds like the owner wants to walk away from it to which Hughes replied that the owner wants to walk away. He kind of left it a mess. We've got some stake in that neighborhood and we would like to not to be in that condition. R. Panosian asked if the purchase agreement gives him standing to which R. Olthof said technically it would legally be adequate for this purpose. Skebey said if he did not have it, he couldn't be here. R. Olthof said that the hardship almost attaches to the present owner and his property. The perspective buyer is buying the hardship in effect, so that would be the difference. Skebey said that most likely the beauty shop was a permitted use as a home occupation or something like that. Probably over the years it evolved into an apartment to which Hughes said yes. R. Olthof said as far as a recommendation we would consider this a matter for local determination under the use variance approval standards under New York State General Cities Law. R. Panosian asked if someone cared to make a motion for local determination.

**MOTION:** Made by Andrew Avery, seconded by Henry Dalrymple, recommending local determination under the use variance approval standards under New York State General Cities Law. Members in favor, all; opposed, none. Motion carried.

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**G. CITY OF ELMIRA – Zoning Map Amendment –  
M.P. Cleary, Inc./Aces and Eights Realty, LLC**

**DISCUSSION:** R. Olthof reported that property is located adjacent to Parley Coburn School property. Petitioner is proposing a rezoning of this land parcel from the present 1-2 family Residential classification to a Central Business District classification. The property is contiguous to an existing Central Business District zone, so it would not constitute, not be considered a spot zoning action by the City. R. Panosian noted that his company owned the adjoining property and asked Rob Lewis to take over for the review of this referral. R. Olthof said this is a request for which a public hearing has been scheduled by City Council for June 12. It has already come before the City Planning Commission, and they have made a favorable recommendation on the proposed rezoning to City Council. Once again, I think that the real consideration on our part is whether the City Planning Commission body considers it to be consistent with the City's long range plan and they apparently do. I think we would be inclined to just recommend concurrence with the City Planning Commission's recommendation to City Council. We see no adverse impacts on countywide or intercommunity interests. R. Lewis asked if we have a motion on the table for concurrence with City Planning Commission.

**MOTION:** Made by Henry Dalrymple, seconded by Andrew Avery, Ronald Panosian abstaining, Anthony Pagano abstaining, concurring with the City Planning Commission's favorable recommendation to City Council noting that there are no adverse impacts on countywide or intercommunity interests. Members in favor, all; opposed, none. Motion carried.

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**H. TOWN OF BIG FLATS – Site Plan Amendment – Parker**

**DISCUSSION:** R. Olthof reported that it is west of the Simmons-Rockwell dealership on the other side. Property is located in a Business Regional zoning district. The site is the same size as the former Maple Valley Farm market that Tom Giles family had operated. Basically it is the same operation and continuation of that farm market operation that existed before. This comes to us whether it would be an amendment to existing site plan for the parcel. Basically what it is attempting to address is the temporary 660' greenhouse that had been erected on the site. I think that is what triggers the need for

this to come here plus the fact that there's new ownership involved. There's no specific site plan that the Town has gotten, but I think that you've got enough depictions of what the property looks like. For those of you who haven't been by there, there is a parking area and a small greenhouse on the property. There would be two actions that would be needed on the part of the town government. One is the need for an area variance. The greenhouse that sits on the property is technically an accessory structure. Under the Town zoning ordinance, that can be no larger than 10 percent of the principal structure which would mean that it would be limited to 140 square feet. This is actually about 660 square feet in size now. R. Panosian said just to be clear, the greenhouse already exists to which R. Olthof replied yes. R. Panosian asked Parker if it existed before him to which Parker replied no. Parker said he bought the property and never approached the Town thinking that he was just carrying on what they had started. He noted that there is a little bit of confusion on his part. He was always under that impression that a temporary greenhouse could be erected any place without permits. If you read New York State Agricultural Law, it basically says a temporary greenhouse can be erected without permits or without permission if that is the word to which R. Olthof offered without approval by the local government to which Parker concurred. Parker advised that he had contacted Lindsay Wickham of the Farm Bureau. He noted that it can be taken different ways. Parker noted that he did this without approaching anyone and that everything was in place. What really triggered all of it was that someone must have called and said that I was doing this here. I was told that no one really noticed what was going on there. No one would have ever said anything unless it was drawn to their attention I guess. So, I had no permit, I had no anything. I put it up. R. Olthof said it basically what this could do is that it could be a contestable issue as far as in terms of agricultural related use versus Town zoning law. That would almost have to be a different arena that would have to be addressed. What would happen is that assuming that the variance is granted by the Town Zoning Board of Appeals and then otherwise the Town has no problem with the site plan which is almost unchanged from what's always been on the property to which Parker concurred. R. Olthof said that would in effect would legitimize completely what you have there. Parker said pretty much what they told me that at this point I had two options: either connect the two buildings together with a covered trellis which will actually enhance things for me because I can hang more flowers and stuff under there or go through a longer process, leave it unattached and go through what he said could be a couple month process. So, they gave me 60 days to attach the two together and

they said that at that point I would have no further issue. R. Olthof said you'd be making it part of the principal structure. Parker said yes and that all it really needed was basically a covered trellis or something like that. R. Panosian asked if that was Parker's intent to do that to which Parker replied yes and added that they gave him 60 days and that he expected to have it done by the end of June. R. Olthof said it could eviscerate the. . . We would recommend local determination. There's one other item with the sign permit to which A. Avery said it's not related to this approval but related to the fact that you changed out the signs from the Maple Valley to which Parker said he did. A. Avery said that he did not have a problem with it but advised Parker that he needed a permit to do that and noted that agricultural law allows you to put those signs but you have to have it. It's no cost for the permit. So if you just go on the Public Works webpage for the county, you can find the highway permit form. A. Avery needs to know where they are, what they say and who's responsible in case something goes wrong with it. If you have any questions on that, please call A. Avery. A. Avery gave Parker his card. R. Panosian asked if R. Olthof would be recommending local determination to which R. Olthof replied yes. R. Panosian said it's not changing parking, driveways, etc.

**MOTION:** Made by Douglas Brackley, seconded by Anthony Pagano recommending local determination since the site plan amendment proposed would have no foreseeable impact upon Countywide or intercommunity interests. Members in favor, all; opposed, none. Motion carried.

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**CHEMUNG COUNTY PLANNING BOARD MEETING  
ATTENDANCE  
MAY 25, 2017**

**ATTENDANCE:**

**Members:**

Ronald Panosian  
Robert Lewis  
Andrew Avery  
Henry Dalrymple  
Anthony Pagano  
Douglas Brackley

**Others:**

Randy Olthof, Pl. Commis.,  
Scott Shaw Associate Pl. I  
Jerre Cress, Assistant Pl.  
Nanette Moss, Secretary  
Tom Skebey, Dir., Cde Enf,  
T. of Horseheads and  
C. of Elmira  
Mike LeRose, Owner,  
regarding Rhodes,  
Poppin' Charlies  
V. of Horseheads  
Charles Rhodes, Poppin'  
Charlies, Pet.,  
V. of Horseheads  
Mike Povuchs, Poppin'  
Charlies, with  
Rhodes, Pet.,  
V. of Horseheads  
Tom Dobrydney,  
Fagan Engrs., rep.  
Glad Tidings Church,  
Pet., T. of Horseheads  
Andrew Hughes, Pet.,  
C. of Elmira  
David J. Cleary, M. P.  
Cleary, Inc.,  
Aces and Eights  
Realty, LLC, Pet.,  
C. of Elmira  
Randy Parker, Pet.,  
T. of Big Flats

**Absent:**

Bo Manuel  
Mary Jo Yunis  
Joseph Peters