

**Minutes  
Albany County Planning Board  
November 20, 2014**

**Present:**

Michael DeVall, Chair, Dominic Rigosu, Paul Cooney, Tim Garufi

**Albany County Planning:**

Leslie Lombardo

**Guests:**

Andrew Brick, Esq., for Prestige Petroleum, Colonie

Accepting the additions to the agenda:

A motion to accept the addition of the two cases for Harmony Prima Lofts from Village of Menands was made by Paul Cooney. The motion was seconded by Dominic Rigosu and unanimously approved by the board.

**Approval of Minutes:**

A motion to accept the minutes from the October 16, 2014 meeting was made by Paul Cooney . The motion was seconded by Dominic Rigosu and unanimously approved by the board.

A motion to move case #7-14/11/02102 to the front of the agenda to accommodate the guest was made by Dominic Rigosu. The motion was seconded by Paul Cooney and unanimously approved by the board.

**Case #: 7-141102102**

Applicant: Prestige Petroleum

654 Watervliet Shaker Road/SR 155, south side of SR 155, in between Brookwood Dr and Doorstone Dr., Latham

Use variance to allow redevelopment of an existing commercial property that is now vacant after fire damage. The applicant proposes to demolish the existing building (former Handy Andy's) and build a 3,800 s.f. convenient store, four gasoline pumps, a 2,200 s.f. canopy for the fuel island and parking for 25 cars. The zoning is single family residential. The previous commercial use was non-conforming. The property is situated along SR 155 in between the intersection with SR 9 and the Northway exit five.

Staff Opinion: Defer to local consideration

It is the jurisdiction of the local municipality to determine zoning regulations within its borders by measuring the application for a use variance to the criteria established under NYS Town Law. This board has found that the proposed action will have no significant countywide or intermunicipal impact.

**Advisory Note:** The town should consider the precedent setting nature of an approval for this type of commercial use in this roadway corridor.

Michael DeVall asked if the guest wanted to comment. Andrew Brick gave a brief presentation of the existing conditions and the proposed development project. Paul Cooney asked Mr. Brick if a traffic study had been done. Mr. Brick said no, but the proposed square footage would create a lower number of trips compared to the previous square footage on the site. Dominic Rigosu asked if the property next

door was a single family home. Mr. Brick said it was and that they had a letter of support from them for the project.

A motion was made by Dominic Rigosu to accept staff opinion. The motion was seconded by Paul Cooney and unanimously approved by the board.

#### **GML CASES RECOMMENDED TO DEFER TO LOCAL CONSIDERATION**

Dominic Rigosu made a motion to consider the **13** cases for defer to local consideration and approve as is with the exception of case #12-14/11/02128 , Harmony Prima Lofts area variance. The motion was seconded by Paul Cooney and unanimously approved by the board. Both Dominic Rigosu and Paul Cooney had to recuse themselves from voting on Harmony Prima Lofts.

#### **Case #: 2-141102094**

Applicant: Stewarts Shops Corp.

1001 Altamont Blvd., southwest corner of SR 156 and Main Street, Altamont

Special use permit to allow an addition of 1,031 s.f. to an existing convenient store. The addition will be to the rear of the existing building. There will be an extension of the paved area (approximately 1,787 s.f.) to reconfigure the parking spaces in the rear and relocate the dumpster. No changes to the existing access are shown.

#### **Case #: 7-141102100**

Applicant: Ahmed Mohamed

640 Loudon Rd/SR 9, west side of SR 9, approx. 900' south of SR 155, Colonie

Use variance to allow a renovation of an existing commercial building to include three apartment units on the second floor where only two units are allowed by code. No changes are shown to the existing access to SR 9.

#### **Case #: 4-141102103**

Applicant: National Grid Corp. -Van Dyke Road Substation and Duct Bank

109 Van Dyke Road, on the west side of Van Dyke Road at the intersection with the Delmar/Route 32 Bypass road, Delmar

Use variance and area variance from maximum allowable height to allow an electrical utility substation to be built in the Residential A zone with several structures that exceed the 30' maximum allowable height requirement. The substation will be built on land owned by the utility and will occupy approximately .78 acres. Plans include a .7 mile long, underground duct bank to carry distribution lines underneath Van Dyke Rd and a portion of SR 443/Delaware Ave. Access to the substation will be from the town road. Applicant has submitted a visual and noise impact assessment. The use variance will be measured against the test for public utilities; one, that there is a public necessity for adequate service and two, that there are no available alternatives for siting. Applicant has stated that the project is needed in part because of the development of Vista Tech Park in Slingerlands.

#### **Case #: 1-141102104**

Applicant: City of Albany-North Russell Road Rezoning

10, 32 & 40 North Russell Road and Rear 18 Russell Road, west side of North Russell Rd., in between Central Ave. and I-90, Albany

Rezoning of four parcels from M-1, General Industrial to C-2, Highway Commercial in order to align the current uses of the existing properties with the permitted uses of the C-2 zoning designation. The properties are surrounded on three sides by the C-2 zone.

**Case #: 7-141102106**

Applicant: Andrew Candiello/Sprint

800 Loudon Rd/SR 9, southwest corner of SR 9 and SR 7, Latham

Use variance to allow construction of a temporary cell tower located within a shopping center. The existing telecommunications equipment is located on a roof of a structure within the shopping center that is being demolished and rebuilt(Latham Circle Mall). The temporary pole will be 59' high and will have an accessory equipment area. Due to close proximity to the airport the applicant filed and received a positive review by the FAA for determination of no hazard to air navigation.

**Case #: 10-141102108**

Applicant: Ray Sign/Mobil

1667 Western Avenue Albany, NY 12203

Area variance from the maximum allowable square footage for signs to allow a pole sign for a gas station that would have 55 s.f. where 50 s.f. is allowed.

**Case #: 7-141102110**

Applicant: Town of Colonie-local law amendments to code

A local law to amend sections of the town code and zoning ordinance based upon recommendations from the land use review committee. Creating regulations regarding the keeping of chickens, refuse collection timing, exceptions to setbacks for drive thru lanes, extended family dwelling units, digital signs and sign law enforcement, light fixture heights, mixed use district requirements, restaurant and supermarket uses, accessory parking lots and motor vehicle storage yards.

**Case #: 15-141102111**

Applicant: Town of Rensselaerville Local Law #1 2014 - Moratorium continuation

A proposed local law to continue for one year the moratorium set forth in Local Law #2 of 2013 on approvals, applications, or drilling for natural gas in the town. The local law of 2013 was a one year extension of a moratorium first set forth in a local law of 2012. The proposed local law for 2014 states that the purpose and intent is for the Town Board to have the necessary time to investigate the following issues: the affect on the Town of any State regulations on the drilling process which are still pending, the report and recommendation by the Town Hydraulic Fracturing Committee from 2012, current work being done to review and revise town zoning law. The ACPB previously reviewed the local laws regarding this matter from 2011, 2012 and 2013 (case #15-11/10/1294, #15-12/12/1605, and #15-13/11/1864).

**Case #: 7-141102115**

Applicant: Robert Savoca

2169 Central Avenue/SR 5, northwest corner of SR 5 and Lombard St., Colonie

Use variance to allow an existing non-conforming use business to change designation by the zoning code from adult entertainment caberet to adult juice bar. No changes are shown to existing conditions of the site.

**Case #: 10-141102116**

Applicant: Doo Young Pai

1758 Western Avenue/SR 20, southwest corner of SR 20 & Homes Terrace, Albany

Special use permit to allow a physical therapy office in an existing building used for a business. There is an existing parking lot and no changes are shown to the driveway accesses to SR 20 and a town road.

**Case #: 5-141102117**

Applicant: Crown Point Ltd. & Crown Point II Ltd.

Route 9W, northwest corner of 9W & Mountain Rd Ext., Ravenna

Subdivision of 2.11 acres into two lots in order to divide two existing buildings (Chrysler showroom & Marshalls Repair) on a property into two separate tax lots. One lot is shown to be "at least 10,000 s.f." and the second lot will be the remainder. No changes to the existing access to Rt. 9W are shown.

**Case #: 5-141102118**

Applicant: Joseph Shear

Deans Mill Rd, west side of Deans Mill Rd., south of SR 143, Ravenna

Subdivision of 10.4 acres into two lots. Lot #1 will be 2 acres and will be merged with an adjacent lot to the south. Lot #2 will be the remaining 8.4 acres. No proposed development is shown.

**Case #: 5-141102119**

Applicant: Leslie Morse

CR 102/Starr Rd. west side and CR 106/Tompkins Rd. north side, Coeymans

Subdivision of .32 acres from 98.6 acres to merge with an adjacent tax lot #26 in order to create .78 acres for tax lot #26. There is an existing residence on tax lot #26. No development is proposed on the 98 acre property.

**GML CASES RECOMMENDED FOR MODIFICATION**

**Case #: 7-141102087**

Applicant: New Comer Funeral Home

181 Troy Schenectady Road/SR 2, opposite Delatour Road, Colonie

Site plan for construction of a 10,800 s.f. funeral home, 1,125 s.f. accessory garage for funeral vehicles, and a parking lot for 100 cars. There is an existing vacant building on the site(5,245 s.f.), previously used as a restaurant, that will be demolished. The existing paved parking area had the capacity for 90 vehicles. There is an existing driveway to SR 2 that is located on an easement along the east property line. The driveway easement provides access to vacant lands adjacent to the site that were previously approved as a Planned Development District (PDD) which has not been built yet. The applicant plans to use the existing driveway to SR 2 and proposes a second driveway to SR 2 on the western side of the property for right in and out turns only. The signalized intersection of SR 2 and Delatour Rd is located 110' from the proposed western driveway for the site. NYS DOT has raised concerns about that proposed access point. A stormwater management basin is planned at the rear of the property as well as an underground detention system at the rear of the parking lot.

Staff Opinion: Modify local approval to include:

1.Approval by New York State Department of Transportation for design of highway access, drainage and assessment of road capacity.

2.A Notice of Intent filed with the New York State Department of Environmental Conservation affirming that a Stormwater Pollution Prevention Plan has been prepared is being implemented or submission of a Stormwater Pollution Prevention Plan that is consistent with the requirements included in the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges (GP-0-10-001, January 29, 2010) for construction activities that disturb more than one acre of land.

A motion was made by Paul Cooney to accept staff opinion. The motion was seconded by Dominic Rigosu and unanimously approved by the board.

**Case #: 7-141102101**

Applicant: Riverhill Center Retail/Office Bldg 1207

1201 Troy Schenectady Road/SR 7, north side of SR 7, approx. 200' east of Rosedale Rd., Latham  
Site plan amendment to a previously approved plan to construct an office/retail building within a parking lot of an existing office park. The applicant is requesting a two story building (23,883 s.f.) instead of the one story building (11,883 s.f.) previously approved. The footprint of the building remains the same, all previously reviewed site design is the same; including a drive thru lane for the new building, stormwater management area along SR 7 under town standards, access provided from an existing signalized driveway to SR 7, and a new right turn only curb cut on the western side of the property. Applicant states that there is sufficient parking within the existing development to accomodate the additional 2nd floor office use.

Staff Opinion: Modify local approval to include:

1.Notification of the application should be given to the adjacent Town of Niskayuna.

2.A highway work permit will be required from the NY State Department of Transportation for any work within the right of way for SR 7.

3.Review by the New York State Department of Transportation for design of highway access, drainage and assessment of road capacity.

A motion was made by Paul Cooney to accept staff opinion. The motion was seconded by Dominic Rigosu and unanimously approved by the board.

**Case #: 7-141102105**

Applicant: Open Arms Fellowship

2714 Curry Road, north side of Curry Rd., east of I890 exit 9, Colonie

Site plan for installation of a 25 car gravel parking lot and paving of a 10 space parking area on the property of an existing church. The requested parking areas will be an extension of an existing parking lot. The total number of spaces provided will be 177. There is no change to the access driveway to a town road.

Staff Opinion:Modify local approval to include:

1.A notification of the application should be sent to the adjacent towns of Guilderland and Rotterdam.

A motion was made by Dominic Rigosu to accept staff opinion. The motion was seconded by Paul Cooney and unanimously approved by the board.

**Case #: 7-141102107**

Applicant: Halal Mart

683 Loudon Rd/SR 9, east side of SR 9, approx. 180' north of SR 155, Latham

Use variance to allow an existing vacant commercial building to be used as a convenience store and restaurant with a setback of 80' from a residential zone and having a dumpster setback 70' from a residential zone where 200' is required by code. The existing building on the property predates current setback requirements. No changes to the existing access to SR 9 are shown.

Staff Opinion: Modify local approval to include:

1. Although no changes appear to be made to the access to SR 9; New York State Department of Transportation should have an opportunity to review the curb cuts on this older property in case improvements are needed.
2. The town should ensure that enough parking is provided for both of the proposed uses of the building.
3. Review by the Albany County Department of Health for food service and other required permits.

A motion was made by Dominic Rigosu to accept staff opinion. The motion was seconded by Paul Cooney and unanimously approved by the board.

**Case #: 10-141102109**

Applicant: Michael & Mary Ricard

2901 Furbeck Rd, north side of Furbeck, Guilderland

Subdivision of 19 acres into 3 lots for residential development. Lot #1 will be 5.6 acres, lot #2 will be 7.2 acres, and lot #3 will be 5.8 acres. Lots 2 and 3 will have access from a shared driveway to a town road. Lot #3 has ACOE wetlands on the site. All of the lots will have wells and septic systems.

Staff Opinion: Modify local approval to include:

1. Notification of the application should be sent to the adjacent Town of Duanesburg.
2. There should be a shared access agreement including a maintenance agreement referenced in the deeds for all of the properties using the shared driveway.
3. The local fire department should review the adequacy of the driveway and possible turn around area needed for emergency vehicles.
4. The location of wells and septic should be evaluated by Albany County Department of Health as part of the subdivision of the land.
5. The land owner of the subdivision should notify purchasers of the lots that they must prepare a SWPPP for erosion and sediment control, if construction will disturb more than one acre of land.

(Disturbance includes the driveway for a single family home and a septic field.) This is part of NY SPDES GP-0-10-001. The DEC website has more information.

A motion was made by Dominic Rigosu to accept staff opinion. The motion was seconded by Paul Cooney and unanimously approved by the board.

**Case #: 4-141102112**

Applicant: Brookhill 2 subdivision

Blessing Road, west side of Blessing Road, south side of Krumkill Rd., North Bethlehem Subdivision of 78.2 acres into 54 lots for single family homes. The subdivision is an extension of an existing residential neighborhood. Existing roads will be extended, one new access point will be made to Blessing Road, a town road. There are extensive federal wetlands on the site. Several stormwater management basin areas are shown. There will be an extension of the sanitary sewer line along CR 204. Four single family lots are proposed along Krumkill Road; one of which will have a driveway to CR 204. A pedestrian pathway is shown that leads from the proposed new neighborhood, crosses the County right of way and connects to the sidewalk along the north side of Krumkill Rd/CR 204.

Staff Opinion: Modify local approval to include:

1.Highway work permits, both utility and non-utility, will be required from Albany County Department of Public Works for work within the CR 204 right of way for installation of the sanitary sewer, pedestrian pathway, grading and the driveway for lot #23 when built.

2.AC DPW Engineering has reviewed the stormwater management plan (SWPPP) for the area of the project along CR 204. Several concerns for possible impacts to existing stormwater infrastructure in the county drainage system along the south side of CR 204 were pointed out in a letter dated November 18, 2014 to the town. The applicant will be required to incorporate changes to the SWPPP as part of the highway work permit from ACDPW.

3.Review by Albany County Department of Health for realty subdivision required permits.

4.Any wetlands disturbance will require notification to and review by the U.S. Army Corps of Engineers for permits under Section 404 of the Clean Water Act.

5.A Notice of Intent filed with the New York State Department of Environmental Conservation affirming that a Stormwater Pollution Prevention Plan has been prepared is being implemented or submission of a Stormwater Pollution Prevention Plan that is consistent with the requirements included in the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges (GP-0-10-001, January 29, 2010) for construction activities that disturb more than one acre of land.

Paul Cooney asked about the distance from the roundabout to the driveway for the property accessing the county portion of Krumkill Rd./CR204. Dominic Rigosu asked about the roundabout and county right of way. There was discussion by the board on the history of this project, including the access and drainage along CR 204.

A motion was made by Dominic Rigosu to accept staff opinion. The motion was seconded by Paul Cooney and unanimously approved by the board.

**Case #: 6-141102113**

Applicant:Cumberland Farms, Inc.

77 Delaware Avenue, southwest corner of Ontario St. & Delaware Ave, just west of 112 St. bridge, Cohoes

Site plan for construction of a 4,738 s.f. convenient store with four gasoline pump islands and a fuel canopy. There are two proposed driveway access points to Ontario St/SR 470 and access to the side street, Delaware Ave. Stormwater management areas are proposed along Delaware Ave.

Staff Opinion:Modify local approval to include:

1. Review by the New York State Department of Environmental Conservation to determine potential jurisdiction under bulk petroleum storage regulations.

2. A Notice of Intent filed with the New York State Department of Environmental Conservation affirming that a Stormwater Pollution Prevention Plan has been prepared is being implemented or submission of a Stormwater Pollution Prevention Plan that is consistent with the requirements included in the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges (GP-0-10-001, January 29, 2010) for construction activities that disturb more than one acre of land.

**Advisory Note:** The City may want to consider using NY State Department of Transportation standards and design techniques for commercial driveway access for this project. Access management should be considered on this thoroughfare by having one curb cut along Ontario Street/470 and one to Delaware Ave. The standard distance used by DOT between a commercial driveway and an intersection is 75'. The project proposal shows 60' from one of the two curb cuts on Ontario St. to the intersection with Delaware Ave.

There was discussion by the board on the access shown. Paul Cooney and Dominic Rigosu commented on the need to follow DOT standards for better site design.

A motion was made by Dominic Rigosu to accept staff opinion. The motion was seconded by Paul Cooney and unanimously approved by the board.

**Case #: 10-141102114**

Applicant:Jeff Smolen

5640 Depot Road/CR 208, east side of CR 208, south of CR 201, Voorheesville

Special use permit to allow construction of a 10,000 s.f. storage building as part of a larger plan of development that will eventually include six buildings on 12.5 acres for a roofing company. The land is currently vacant. The proposed driveway access will be to CR 208. Two proposed septic system areas are shown. The plan shows the intended build out of the property in two phases, but does not show stormwater management provisions other than a note that sheet flow will be directed to existing swales and culverts that flow to an existing retention pond, which in turn flows through a culvert under CR 208 to an intermittent stream on the west side of the roadway. The intermittent stream on the west side of CR 208 flows to designated NYS DEC wetland areas along the Black Creek.

Staff Opinion:Disapprove without prejudice:

The County has concerns about the drainage for this property and the impact to the culvert under CR 208. The existing drainage conveyances and pond present on the site cannot be used as the sole means

of stormwater quality and quantity control and would not be adequate to meet NYSDEC's stormwater design standards without significant modification.

Because the project will disturb more than one acre of land, it requires a Stormwater Pollution Prevention Plan (SWPPP) including both Erosion and Sediment Control practices as well as permanent Post-Construction Stormwater Management under the "larger common plan of development" provisions of the NYS DEC SPDES General Permit for Stormwater Discharges for construction activities.

There was discussion by the board about the area and the drawing for the project, including what was not addressed. There was consensus that there was a significant lack of information.

A motion was made by Dominic Rigosu to accept staff opinion. The motion was seconded by Paul Cooney and unanimously approved by the board.

**Case #: 15-141102120**

Applicant: William Welch

631 CR 351, west side of CR 351, approx. 1,125' north of CR 402, Rensselaerville

Subdivision of 91 acres into two lots for residential use. Lot #1 will be 83 acres and shows a proposed residence with a driveway to CR 351, a septic system and well. The proposed driveway location crosses the steepest section of the topography on the property. Lot #2 is 8 acres and has an existing residence and driveway to CR 351. The property is located within the agricultural district. An agricultural data statement is included in the file, but no note is on the plat.

Staff Opinion: Modify local approval to include:

1. Before a building permit is issued for a dwelling on lot #1 a review and permit will be required from the Albany County Department of Public Works for design of highway access, assessment of road capacity, and drainage. Access location must meet the county requirements for site distance and drainage.

2. The location of wells and septic should be evaluated by Albany County Department of Health as part of the subdivision of the land.

3. The subdivision plat should include a note that the property being subdivided is located within 500' of a farm operation in the County Agricultural District as per Albany County Right to Farm Law 2007.

4. The land owner of the subdivision should notify purchasers of the lots that they must prepare a SWPPP for erosion and sediment control, if construction will disturb more than one acre of land. (Disturbance includes the driveway for a single family home and a septic field.) This is part of NY SPDES GP-0-10-001. The DEC website has more information.

**Advisory Note:** Slopes of 15% or greater are above the recommended grade for a rural residential driveway. During winter conditions the proposed driveway will be hazardous to maneuver. The applicant should consider relocating the driveway to avoid steep slopes.

A motion was made by Dominic Rigosu to accept staff opinion. The motion was seconded by Paul Cooney and unanimously approved by the board.

**Case #: 12-141102127**

Applicant: Harmony Prima Lofts LLC/Albany International-site plan

1373 Broadway, east side of Broadway, across from Wolfert Ave., Menands

Site plan and special use permit for renovation of an existing vacant building and accessory structures, previously used for industrial manufacturing, to residential apartments and amenity buildings. The special use permit is to allow a multifamily use in the village business district. There will be 136 apartment units, parking for 191 cars; including a large parking garage for 116 cars at the rear of the site, as well as smaller residential type parking garage buildings, a tennis court, a pump station, a storage building and a day care center building. The property is divided by the municipal line between Menands and Albany. The ACPB previously reviewed the project from the City of Albany for the area of the project within their jurisdiction (case #1-14/8/2032, 2034). There are existing ponds on the site that will be used in the stormwater management design and two existing driveways to Broadway; one within the city and one in the village. The plan shows an extension of pavement for fire access in front of the building.

Staff Opinion: Modify local approval to include:

1. Notification of the application to the adjacent City of Albany.

2. The stormwater management plan review should be coordinated with the adjacent City of Albany and any necessary notifications made to or permits from NYSDEC.

3. Review by the Albany County Department of Health for water supply, waste water discharge and other required permits.

4. Notification to the local fire department for adequacy of emergency vehicle access.

5. Review by and any necessary permits from the NY State Office of Children and Family Services before operation of the day care center.

Michael DeVall noted that there was no vote for this referral due to recusals by Dominic Rigosu and Paul Cooney.

Meeting adjourned at 4:10.

The Albany County Planning Board will meet again on Thursday, December 18, 2014 at 3:30 p.m. at the Albany County Department of Public Works, 449 New Salem Road, Voorheesville, New York 12186.