

**Minutes**  
**Albany County Planning Board**  
**November 19, 2015**

**Present:**

Dominic Rigosu, Acting Chair, Paul Cooney, Michael DeVall, Roland Graves, Ben Syden, William Anslow, Jim Birdsall

**Albany County Planning:**

Leslie Lombardo

**Secretary:**

Janis Dunham Relyea

**Guests:**

Daniel Hershberg, Hershberg & Hershberg Engineering  
Andy Brick, Esq.  
H.A. (Andy) Lautenbaucher, Speedway LLC  
Scott Siegel

**A call to order:**

Dominic Rigosu called the meeting to order at 3:30 p.m.

Ben Syden made a motion to accept the minutes from the October 15, 2015 meeting. The motion was seconded by Roland Graves and unanimously approved by the board.

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

Michael DeVall made a motion to consider the **12** cases recommended for defer to local consideration and approve as is. The motion was seconded by Paul Cooney and unanimously approved by the board.

**Case # 7-151102382**

1095 New Loudon Road LLC

1157 Central Avenue, northwest corner of Central Avenue and Reynolds Street, Colonie

Special use permit to allow construction of a convenient store (5,000 s.f.) with a drive thru lane and gas station with eight fuel islands in the Neighborhood, Commercial, Office Residential (NCOR) zone. The convenience store/mini mart use is a special permit use under town regulations. The proposed project will be located on a property currently used as a hardware store (ACE/Phillips 20,468 s.f.), which would be demolished. The sketch plan shows a change to the access to Central Avenue that has been reviewed by NYS DOT. If approved, a site plan review will be required by the town planning board.

**Advisory Note:** The Zoning Board may want to consider the intensity of the proposed size of the convenient store, number of fuel islands and the drive thru use for this area of Central Avenue in the town and the precedent it may set for future requests for this size of convenient store/gas station commercial use in the NCOR zoning districts.

**Case # 7-151102384**

Regional Food Bank – addition

965 Albany Shaker Road/CR 151, east side of CR 151, in between SR 7 and Sicker Road, Colonie  
Site plan for additions to an existing commercial building. Additions to include 4,960 s.f. made to the existing office space area of the building, a 2,490 s.f. addition to the pick up space area and two separate canopies of 996 s.f. and 150 s.f. Part of the additions are over areas that are currently paved. The number of employees will increase from 65 to 75, but 96 spaces are provided. No changes are proposed to the existing access to CR 151. Less than one acre will be disturbed.

**Case # 7-151102385**

Texas Roadhouse Addition

105 Wolf Road (rear), east side of Wolf Road, north side of Sand Creek Road, Colonie  
Site plan for renovation of space (334 s.f.) for an existing restaurant by converting an outside patio to indoor seating space to accommodate 24 additional seats. No changes will be made to the access to the property or to the parking lot.

**Advisory Note:** The town should ensure that adequate parking exists for the additional seats.

**Case # 4-151102388**

Hess Retail Stations LLC – Slingerlands

1358 New Scotland Road/SR 85, east side of SR 85, between Maher Road and roundabout, Slingerlands  
Area variances from sign regulations to allow existing, non-conforming signage for a gas station to be changed to reflect a different ownership name. The existing free standing sign exceeds the maximum square footage allowed (20 s.f. allowed, 41 s.f. existing) and height (10' allowed, 35'.8" existing). All the signs are also internally illuminated where only external illumination is allowed. Applicant requests to maintain existing conditions of signage and change signage names only.

**Advisory Note:** The Town Zoning Board should consider the precedent setting nature of allowing significant area variances to the sign code in the commercial zone.

**Case # 4-151102389**

Hess Retail LLC (Speedway)-Delmar

146 Delaware Avenue/SR 443, south side of SR 443, between Mason Road and Normanskill Blvd. Delmar  
Area variances from sign regulations to allow existing nonconforming signage for a gas station to be changed to reflect a different ownership name. The existing fee standing sign exceeds the maximum square footage allowed (32 s.f. allowed, 41 s.f. existing) and height (10' allowed, 35'.8" existing). All the signs are also internally illuminated where only external illumination is allowed. Applicant requests to maintain existing conditions of signage and change signage names only.

**Advisory Note:** The Town Zoning Board should consider the precedent setting nature of allowing significant area variances to the sign code in the commercial zone.

**Case # 1-151102390**

Thualskar Abbas

276 Second Avenue, south side of Second Avenue, between Frisbee and O'Connell Streets, Albany  
Use Variance to allow a take-out restaurant on the first floor of an existing building previously used as a tavern in a residential zone. The property was previously granted for approval for commercial retail use.

**Case # 10-151102391**

Peter Stanish

2563 Western Avenue/SR 20, north side of SR 20, between Gay Lane and West Highland Drive, Altamont  
Special use permit to change the conditions of a previously approved special use permit. The property is an existing shopping plaza (Park Place) and was granted a special use permit in 1988 that included a condition that no change in use shall be made without approval of the ZBA. Applicant requests removal of this condition. Access to the property is from town roads.

**Case # 7-151102393**

Larry Wyles

364 Watervliet Shaker Road, south side of SR 155, 115' east from Delatour Road, intersection, Colonie  
Area variance from placing an accessory structure in the front yard of a single family zone. The structure will be a garage 24'x34' for the existing residence on the property. It will be located 196' from the front property line along Watervliet Shaker Road.

**Case # 7-151102395**

Lia Collision Center – additions

2116 Central Avenue/SR 5, south side of SR 5, west of Lisha Kill Road, Colonie

Site plan for additions to an existing automobile dealership and service center. The additions will be for a car wash and two auto detail bays with a total of 4,745 s.f. added. The additions will be made to the existing building on areas that are currently paved. No changes are proposed to the existing access to SR 5. The added square footage is below requirements for additional stormwater management planning.

**Case # 1-151102398**

CDHFH/Habitat for Humanity

220, 222 and 224 Orange Street, south side of Orange Street, between Dove and South Swan Streets, Albany

Area variance from lot depth on three different lots to allow construction of three, new two story residential dwellings. The required lot depth is 100'. The existing lots are all 90' in lot depth.

**Case # 13-151102400**

James Olsen

1900 New Scotland Road/SR 85, south side of SR 85, east of SR 85A, New Scotland

Subdivision of 13.09 acres into two lots. One lot will be 3.61 acres into two lots. One lot will be 3.61 acres and the other lot will be 9.48 acres. The 9 acre lot has an existing hardware store and garden center business with access to SR 85. The 3+ acre lot is being created for a future business, it has it's own access to SR 85.

**Case # 3-151102402**

Steven Yuhasz

21 Myers Lane and SR 157A, East Berne

Subdivision of 4.51 acres form a 52 parcel to be annexed to an adjacent residential property that is 2.6 acres. No new development is shown. No changes to existing access driveways will be made. An agricultural data statement is included in the file.

## **GML CASES RECOMMENDED FOR MODIFICATION**

To accommodate the guests Michael DeVall made a motion to move cases 15/11/02383, 15/11/02392 to the front of the agenda. The motion was seconded by Roland Graves and unanimously approved by the board.

### **Case # 7-151102383**

Student Living Community PDD

100 Fuller Road/CR 156 & 65 Railroad Avenue, northeast corner of Fuller Road and Railroad Avenue, Colonie

Rezoning of 3.32 acres from Industrial to Planned Development District (PDD) to allow redevelopment of a property to a privately owned student housing project. The referral is also a site plan review from the town planning board. The applicant states that the housing project would be marketed to SUNY POLY and University at Albany students and employees. Existing buildings on the site will be demolished. Two new buildings will be constructed; one 4 story and one 5 story for a total of 590 beds. A six level parking garage with 441 spaces will be provided with access from Railroad Avenue, a town road.

Stormwater management will be provided with an underground detention system. A traffic impact study was done and no mitigation is proposed. The level of service for the intersection of Fuller Road and Railroad Avenue will drop from a level of B to C at peak times.

The property is located within an area that was the subject of a Linkage Study sponsored by CDTC from 2009-2012. The Town of Guilderland and Albany County were also partners in the Railroad Avenue Linkage Study. The study recommended encouraging revitalization through intermunicipal cooperation, coordination, working with stakeholders such as SUNY and preserving industrial development as the predominant land use within the area.

**Staff Opinion:** Modify local approval to include:

1. In terms of the Railroad Avenue Linkage Study recommendations; while the project is not an industrial development it does serve the needs of the two universities that are stakeholders in the area. Both universities are expanding and yet are physically limited by the size of their campuses. Furthermore, since the Linkage Study was completed in 2012 no new industrial developments have been proposed for the study area. The town must balance several factors before approving the zone change including; the density requested by this project, the precedent that may be set for additional zone change requests for similar uses and similar density levels, the compatibility with future industrial uses, the traffic impact from this use as well as future build out in the area and the change in the streetscape that will occur with this project.

The Albany County Planning Board has recently reviewed two, new, private student housing projects on the north side of Washington Ave within the City of Albany with a total of 484 beds. SUNY POLY also has a proposed student housing plan, released in August 2015, for phased construction of approximately 504 new beds in four new buildings on the POLY campus. University at Albany has recently made public plans to expand the student population of their campus by up to 3,000 students in the next three years. The traffic impact from all of these projects, both vehicular and pedestrian, needs to be considered when approving zone changes in the area.

2.The Railroad Avenue Linkage Study recommended aesthetic improvements including way finding signage. The project's location on the corner of Fuller Road and Railroad Avenue should provide way finding signage for Railroad Avenue east.

3.The applicant's proposed stormwater management practices will need to be revised to include more green infrastructure practices in order to downsize the proposed underground storage system. The applicant should be required by any town approval of the project to comply with the county's comments regarding stormwater management practices (letters dated August 18, 2015 and November 18, 2015).

4.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-0-15-002, January 29, 2015) for construction activities that disturb more than one acre of land.

5.Review and comments from CDTA should be considered for the project in order to best provide for public transit access and improvements since the student residents of the project will be using the transit system.

6.Any comments made by the adjacent Town of Guilderland should be considered.

7.Approval from the Town of Guilderland Highway Department for access and work permits for Railroad Avenue.

8.Review by the Albany County Department of Health for the required backflow preventer and any other required permits.

9.Approval from Albany County Department of Public Works for highway work permits for any work within the county right of way.

10.Review by the FAA (Form 7460-1 available from [www.faa.gov](http://www.faa.gov)) and notification to Albany Airport Authority for FAA FAR Part 77 Aeronautical Impact Notification for temporary construction related and structural incursions within the prescribed Runway Approach Surfaces.

**Advisory Note:** 1. The open space provision written for the PDD regulations does not necessarily address redevelopment within the industrial zone. The town should require that the open space provided be commensurate with the level of development. The Town may want to consider the PDD regulation that provides for the provision of or funding for significant amenities off site.

2. The town should be aware that the sidewalks along Fuller Road within the City of Albany are not maintained in the wintertime by the City and will pose a hazard to pedestrians walking from the project site south to the two campuses.

Dominic Rigosu asked if guests wanted to comment. Daniel Hershberg briefly described the project. The project is designed specifically for students and staff of the two universities and will become a revitalization catalyst for the area. He discussed the other student housing projects being proposed in the area and the need for housing for students.

Dominic Rigosu asked about the traffic impact. Mr. Hershberg briefly discussed the traffic analysis that was done, the parking arrangement and the access to the bus stop.

Andy Brick commented that this is a for-profit student housing project with a 99% return rate of the target market. The applicant has experience managing these types of projects in other college campus areas.

Paul Cooney asked about parking spaces and will it be paid parking? Mr. Hershberg said parking is paid and is a separate charge for residents of the building, there will be 443 spaces in the garage.

Bill Anslow asked where utilities will be connected from; the Fuller Road side or the Railroad Ave side? Mr. Hershberg said they will come from the Town of Guilderland, on the Railroad Ave side.

There was discussion about the pedestrian access and the lack of maintenance of sidewalks within the city section of Fuller Rd. Ben Syden said that there should be coordination of all three municipalities for pedestrian access and sidewalk maintenance. A shared maintenance agreement could be done to make sure the sidewalks are taken care of. It was agreed by the board to add that to the advisory statement.

Michael DeVall made a motion to accept staff opinion with the addition to the advisory statement regarding a shared maintenance agreement concerning sidewalks. The motion was seconded by Ben Syden and unanimously approved by the board.

#### **Case # 10-151102392**

TSL Adventures

1500 Western Avenue/SR 20, south side of SR 20, across from Stuyvesant Plaza entrance, Guilderland Special use permit to allow an addition (8,000 s.f.) to an existing church building that will be used for a daycare facility with an after school program. The applicant states that an additional 40 children and 5 employees will be added to the existing program with the additional building space. An addition of 7 parking spaces will be provided as well as a turnaround area for buses. Access to the site is from a town road that is off of SR 20 in a very busy and often congested area of SR 20, between the entrance to Stuyvesant Plaza and the traffic signal at Schoolhouse Rd./CR 204. Applicant states that no traffic analysis is necessary as per ITE trip generation estimates and DOT requirements. The property is located along the section of SR 20 that is often closed during rainstorm events because of excessive flooding. Applicant states that no stormwater drainage management will be provided and is not necessary due to the location of the property downstream from the Western Avenue culvert. Stormwater drainage flow from the site will follow existing conditions and not be detained on site. Existing topography slopes from the building site down to SR 20 in an easterly direction towards the intersection with Fuller Road.

Staff Opinion is to Disapprove:

Before an approval for this application is given, the town should have a traffic impact analysis for reasons of traffic safety. In addition, stormwater management practices, through the use of green infrastructure, should be given to ensure that an existing area of flooding that is a public safety hazard is not further impacted.

Adding additional vehicles and buses making left hand turns into and out of East Highland Drive from SR 20 at peak hours in an already heavily congested area needs to be evaluated. While the applicant projects a small increase in vehicle traffic, it needs to be put in context with existing conditions. NYS DOT should also be made aware of the project and given a chance to comment.

No additional stormwater drainage should be directed to the existing drainage system along SR 20 in this area. The use of green infrastructure practices for infiltration of stormwater would prevent additional runoff from new impervious surfaces on the site. The drainage of CR 156/Fuller Road is directly connected to the SR 20 drainage system and is impacted by the flooding that occurs on Western Avenue in front of this property. Some attenuation of stormwater runoff from new construction is justified in this location.

**Advisory Note:** The town should consider adopting a lower threshold for the implementation of stormwater management practices as other towns have done. By lowering the threshold to a 5,000 s.f. disturbance a community is better able to plan for impacts from redevelopment and expansions of existing sites in areas that are not adequately managing stormwater.

Dominic Rigosu asked if guests wanted to comment. Daniel Hershberg said he was representing the project and they will probably put in some type of infiltration area in the lawn area that is consistent with the stormwater management design manual. He mentioned that the town just received a grant for monies from the state to address the drainage problems along Western Ave and he will work with them in terms of coordinating what will be done there with this project. There was discussion by the board about the drainage conditions of the area, and the history of the problems with drainage.

A motion to accept staff opinion was made by Michael DeVall. The motion was seconded by Roland Graves and unanimously approved by the board.

**Case # 15-151102386**

Don Britton

28 CR 353, west side of CR 353, south of Pond Hill Road and Ten Mile Creek, Rensselaerville  
Special use permit to allow an apartment in an existing commercial building. The building also has other tenants including a restaurant and post office. There is an existing parking lot and two existing curb cuts to CR 353. This property was previously reviewed in 2014 (case #15-14/7/2009) for a special use permit.

Staff opinion is to modify local approval to include:

1. AC DPW has determined that the curb cut to CR 353 on the northern end of the property should be closed for reasons of traffic safety. The applicant should contact AC DPW Engineering office to discuss the details of the closure. The existing curb cut on the south side of the property will be adequate to serve the site.

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

**Case # 15-151102387**

Paul Baitsholts

346 Gifford Hollow Road, east side of Gifford Hollow Road, 500' north of Stevens Road, Rensselaerville  
Subdivision that is a lot line change between two parcels under the same ownership. Applicant will take 13.8 acres from tax lot 126-1-13 that is currently 73 acres and add it to property on the north side (tax lot #126-1-11.1) to create a 46.4 acre property. The change requested reverses a previous subdivision in 2009. No new development is shown. Access to the properties is from a town road.

Staff opinion is to modify local approval to include:

1. Notification of the application to should be sent to the adjacent towns of Berne and Westerlo.

A motion to accept staff opinion was made by Michael DeVall. The motion was seconded by Ben Syden and unanimously approved by the board.

**Case # 10-151102394**

William Lia

1229 Western Avenue/SR 20, north side of SR 20, west side of entrance to University at Albany,  
Guilderland

Special use permit to allow redevelopment of a vacant property to be a sit down restaurant with 3,500 s.f. Parking for 35 cars will be provided. The property was once a gas station, so there are two curb cuts to SR 20, the eastern access point will be closed. The western curb cut is a shared access driveway with the adjacent property (tanning salon) and will remain open. Applicant states that an on site stormwater collection and drainage system will be provided.

Staff opinion is to modify local approval to include:

1. Due to the change in use of the property a review should be done by the NYSDOT for design of highway access, drainage and assessment of road capacity.
2. The town should ensure that a shared access agreement is in place with the adjacent property for the existing shared driveway access.
3. Notification of the application should be given to the adjacent City of Albany.
4. Review by the Albany County Department of Health for food service and other required permits.
5. The town should ensure that the fuel tanks were removed from the site and notification of the closure was given to the NYS DEC.

**Advisory Note:** The town might want to consider asking the applicant to provide a pedestrian pathway access to the SUNY campus behind the property.

A motion to accept staff opinion was made by Roland Graves. The motion was seconded by Michael DeVall and approved by the board. Paul Cooney recused himself from this case.

**Case # 7-151102396**

Dollar General

1935 Central Avenue/SR 5, east of Reber Street, Colonie

Site plan for construction of 7,500 s.f. retail store on a vacant property with access to SR 5/Central Avenue. Parking for 32 cars is provided. A stormwater management area is shown at the rear of the site. NYS DOT has reviewed the plans.

Staff opinion is to modify local approval to include:

1. Approval by the NYS DOT for design of highway access, drainage and related highway work permits.
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 NYSDEC SPDES General Permit for Stormwater Discharges (GP-0-15-002) for construction activities that disturb more than one acre of land.

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

**Case # 2-151102397**

Altamont Meat Market

101 Prospect Terrace, northwest corner of Prospect and Main Street, Altamont

Special use permit to allow a meat market and deli to occupy an existing commercial building in the central Business zone. There is an existing parking lot at the rear of the building that has access to a village street.

Staff opinion is to modify local approval to include:

1. Review by the AC DOH for food service and other required permits.

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

**Case # 7-151102399**

David Gordon/Gordon Commercial Development LLC

945-957 Watervliet Shaker Road/CR 157 (Shaker Shed), north side of CR 157, across from Sand Creek Road, Colonie

Special use permit to allow a multifamily development in the Commercial Office (CO) zone. The multifamily use is allowed if it's determined by the ZBA to meet specific standards. The town planning board will review the site plan. The project proposal plan sheet shows 134 dwelling units in 17 new buildings. Three existing buildings on the site will be kept and maintained for additional dwelling units as well as maintenance and clubhouse uses. There are 260 parking spaces including attached and detached parking garages and surface spaces. There are 11.6 acres of open space, including stormwater management areas. The main access to the site will be from a shared driveway through the property to the west (proposed Affirms soccer complex). The proposed soccer complex driveway will access CR 157 at the signalized intersection with Sand Creek Rd. A second access point for this project to CR 157 will be located east of Sand Creek Road where there is an existing driveway (proposed right in and out only turns). A one acre size area of the property located at the corner of the proposed driveway and CR 157 is shown as a future commercial site. The property is within the Airport area GEIS study area. The project includes a merger of two tax parcels. The applicant has been working with the Shaker Historical Society for comments on design.

Staff Opinion is to modify local approval to include:

1.The town should condition the special use permit to include that the access driveway to CR 157 be controlled by a right turn in and out only access. AC DPW will only allow this driveway access with a controlled design for reasons of traffic safety.

2.The town should discuss with the applicant a provision for a cross easement provided to the property on the east side of the site for purposes of access management. AC DPW has concerns for future needed access to CR 157 if adjacent property proposes development.

3.Submission of an agricultural data statement to the Town as required by Town Law for special use permit approval of sites within 500 feet of a farm operation located in an agricultural district. The property to the east of the project is within agricultural district #3.

4.The applicant should be aware that the stormwater pollution prevention plans (SWPPP) must be coordinated with the SWPPP prepared for the adjacent site to the west, the Affirms soccer complex. Drainage from both properties impacts the drainage system for CR 157. The Albany County stormwater review will require that a coordinated SWPPP for both projects is done.

**Advisory Note:** The application submitted does not describe the project with a consistent number of buildings and total number of units, there are discrepancies. The plan sheets show 17 new buildings with a total of 134 units, the EAF describes 16 new buildings and 130 units total; the narrative statement describes 17 new buildings with 125 new units and 5 existing units. The ZBA should make any approval explicit for the total number of buildings and total number of units allowed.

There was discussion by the board about the density of the project, access to Watervliet Shaker Rd, the layout of the buildings, the roadways, and the lack of a turnaround for fire trucks. Leslie said that this project will be reviewed again for site plan by the town planning board and sent to the board.

A motion to accept staff opinion with an addition to the advisory note as discussed for the site layout to be coordinated with comments from emergency services for access was made by Ben Syden. The motion was seconded by Roland Graves and unanimously approved by the board.

**Case # 3-154402401**

Margaret Vogel Nagangast

Dyer Road, west and east side of Dyer Road, south side of Warner Lake, Berne

Subdivision of 10.45 acres into two lots for residential development. Lot #1 will be 5.43 acres and lot #2 will be 5.02 acres. Both lots are proposed for residential dwellings with wells and septic systems. Access is to a local road. Lands within agricultural district #1 are adjacent to the west of this property. A stormwater pollution prevention plan (SWPPP) note has been included on the plat.

Staff opinion is to modify local approval to include:

1. The location of wells and septic should be evaluated by the AC DOH as part of the subdivision of the land.
2. Due to proposed residential development 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.

Bill Anslow asked if the road will be maintained by the town. Leslie said that the plat did not note whether or not it was a town road or a private road, but some of the roads around the lake were seasonal. The board discussed adding that the Town may want to have it put on the plat whether or not Dyer Road is a town road or a private road in terms of maintenance.

A motion to accept staff opinion was made by Michael DeVall with the addition of the advisory as discussed. The motion was seconded by Paul Cooney and unanimously approved by the board.

**Other Business:**

Michael DeVall announced that he was handing in his resignation from the board effective today. It was noted that this meeting was also Paul Cooney's last one. The board thanked them both for their many years of service.

Meeting adjourned at 4:39 p.m.

The next Albany County Planning Board meeting will be held on Thursday, December 17, 2015 at 3:30 p.m. in the conference room at the Albany County Department of Public Works, 449 New Salem Road, Voorheesville, NY 12186.