



NIAGARA COUNTY PLANNING BOARD

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Joseph Kibler
Chairman

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MEETING MINUTES

Niagara County Planning Board
Monday, May 17, 2021 – 2:00 p.m.

Meeting held via WebEx:

<https://niagaracounty.webex.com/niagaracounty/j.php?MTID=mf57afcbc1e1d259393a73a9fab5925d0>

- Members Present:** Bill Agronin, J. Anthony Collard, Walt Garrow, Joseph Kibler, Andrea Klyczek, Normal Machelor, James Sobczyk, Mary Jo Tamburlin, Garret Meal (ex-officio)
- Members Absent:** Thomas Ohol, Jonathan Welka
- Staff Present:** Amy Fisk, Jacqueline Minicucci

1. The meeting was called to order by Chairman Kibler at 2:01 p.m.
2. A motion was made by Mr. Garrow and seconded by Mr. Agronin to approve the May 17, 2021 meeting minutes. Unanimous. Carried.
3. *Niagara County Planning Board Referrals*

No. 6720 – Town of Niagara – Site Plan Review, Parcel Combination

Request by John Orefice for the Planning Board to review a request for the combination of two residential parcels (SBL #145.06-3-14.1 & SBL #145.06-3-14.2) and a site plan allowing for the installation of a pool for personal use. The combined property acreage is 0.5 and is zoned R-1, Single-Family Residential. There was no representative for the project. Ms. Fisk informed the board the project was referred because it was a corner lot within 500' of Lockport Road. Electrical lines on the property do not appear to cause safety concerns. A motion for approval was made by Mr. Sobczyk and seconded by Ms. Tamburlin. Unanimous. Carried.

No. 6721 – Town of Niagara – Site Plan Review

Request by David Giusiana, AIA for the Planning Board to review a site plan for the construction of a 50'x 50' single-story addition to an existing manufacturing building to house automated cutting and welding machines located at 3507 Hyde Park Boulevard. The property is 0.99 acres and is zoned HI, Heavy Industrial. David Giusiana was present to discuss the project. Mr. Giusiana stated the addition will be the same style as the existing building. The single-story structure will be pre-manufactured and placed on a paved surface. The adjacent businesses are industrial in nature and the site is properly zoned. A motion for approval was made by Ms. Tamburlin and seconded by Mr. Garrow. Unanimous. Carried.

No. 6722 – Town of Lockport – Site Plan Review

Request by Steve's Custom Cycle for the Planning Board to review a site plan for the construction of a 1,600 sq. ft. addition to an existing building located at 6095 Robinson Road. The property is 1.2 acres and is zoned B-2, General Business Use. Steve Morse was present to discuss the project. Mr. Morse informed the board that the 40' x 60' addition is at the rear of the existing building. A large overhead door will be installed to allow work to be performed on larger recreational vehicles and for storage purposes. A motion for approval was made by Ms. Klyczek and seconded by Mr. Agronin. Unanimous. Carried.

No. 6719 – Town of Niagara – Site Plan Review

Request by 4660 Witmer Rd., LLC for the Planning Board to review a site plan for the construction and operation of an industrial material manufacturing facility located at 4660 Witmer Road. The property is 12.5 acres and is zoned HI, Heavy Industrial. Rosanne DiPizio was present to discuss the project. Mr. Garrow asked for clarification why an easement was needed. Ms. DiPizio stated the entire parcel will not be utilized for the project and the easement from the neighboring property will allow the parcel to be subdivided in the future if needed. Mr. Garrow requested a description of the asphalt mixing process. Ms. DiPizio reviewed the different sizes of aggregate that get mixed with tar and stated that no stone will be crushed on the property. In order to become a greener facility, millings from former roads may also be recycled to produce the product.

Mr. Garrow had concerns regarding ground disturbance during the building process noting that there is likely soil contamination in the vicinity of the site. Ms. DiPizio stated there will be minimal ground disturbance, and if needed, soil will be kept on site. Mr. Garrow noted site soil should be checked for chemicals such as Chlorobenzenes, chlorotoluenes, and dioxin. Ms. DiPizio stated they are working closely with NYS DEC and will complete any testing that is required. Mr. Garrow asked how dust will be controlled in the process and Ms. DiPizio stated there is only fugitive dust off the material piles and it will be controlled with water as necessary. Ms. DiPizio noted that any fugitive emissions from the raw materials will be collected in the baghouse and the process has been reviewed by NYS DEC. Ms. DiPizio reviewed the site plan map provided to the board and explained the system process noting the piped system and self-containment that will reduce the chance of emissions from volatile chemicals. NYS DEC approved the process in their original permit pre-approval. Mr. Garrow noted concerns regarding the possibility of fires from the mixing of chemicals. Ms. DiPizio said the system is self-contained and if shut down, the lack of oxygen would suppress any fire within the drums. Ms. DiPizio also stated the mixing system is fully automated with a manned master control center. Mr. Garrow stated the volatile chemicals used are highly combustible and is very concerned that there is no plan for fire suppression. Mr. Garrow stated the site is only 600' from Niagara University dormitories and the movement of possibly contaminated soils, emissions and fire safety concerns should be noted. Ms. DiPizio reiterated that the operation is similar in nature to other asphalt facilities in the area and everything complies with NYS DEC guidelines and restrictions.

Chairman Kibler opened the meeting for public comment. Chris Voccio, City of Niagara Falls Councilman asked the board to consider the long history of land contamination in the City of Niagara Falls and surrounding communities and requested the board deny the project to mitigate any chances of further contamination. Jeremy Colby, counsel for Niagara University reviewed a letter that was sent to the board regarding concerns the university has with the project. Mr. Colby informed the board that the use is not allowed in the town's current zoning and that an independent study was done showing deficiencies in the environmental reports. Mr. Colby stated the university is one of the largest employers in Niagara County and the campus operations and students have a large economic impact to the area. Concerns were raised with the optics of the operation and stack silos with their proximity to the main campus entrance noting that they would be visually unappealing and may deter students from enrolling. Ms. DiPizio stated that an alternate site located at 3535 Hyde Park Boulevard was provided to the university but that site was also

deemed to be unacceptable to the university. Ms. Fisk reviewed the state law criteria regarding approval/disapproval of the referral noting that the project cannot be denied due only to public opposition. Ms. Fisk reviewed the allowed uses within the towns HI, Heavy Industrial zoning noting SIC code 2951, Asphalt Paving Mixtures and Blocks is not an allowable use within that zone.

Mr. Agronin asked for clarification regarding operating hours. Ms. DiPizio stated that 75% of the operations will be Monday-Friday, 6am-4pm with the exception of special requests by the NYS Department of Transportation that may require night operation due to contractual agreements. Ms. DiPizio also noted that it is possible to produce the needed asphalt during day operations since it can be stored in temperature controlled silos and then loaded onto trucks for night deliveries. Mr. Machelor informed the board that he has serious concerns regarding fire safety without a fire suppression system on site as well as the cumulative effect of the air emissions on the environment. Ms. DiPizio stated she does not believe there is a need for fire suppression due to the self-contained system but would address the issue if there is a real concern. Mr. Agronin asked for the status of NYS DEC's review and approval. Ms. DiPizio stated the draft permit was already approved but rescinded until final approval from the Town is received on the site location. She does not anticipate any issues if the project is moved to another location because there will be no changes to the equipment or system plans or processes. Mr. Garrow made a motion for disapproval based on the following reasons: 1.) SIC code 2951, Asphalt Paving Mixtures and Blocks is not a listed permitted use in the town's HI, Heavy Industrial Zoning District. 2.) Lack of technical engineering to prevent chemical leaks to adjacent properties. 3.) Site plan does not include on-site fire and explosion prevention equipment. Unanimous. Carried.

No. 6723 – Town of Niagara – Site Plan Review

Request by David Smith Enterprises, LLC for the Planning Board to review a site plan for the construction of a 16,000 sq. ft. and 20,000 sq. ft. medical office buildings located at Niagara Falls Blvd. and Williams Road (SBL #146.19-2-4.2). The property is 10.5 acres and is zoned B-1, General Business. Tim Arlington of Apex Engineering was present to discuss the project. Mr. Arlington stated the project is being completed in Phases. Phase I was built in 2019 and included the construction of a medical office building on the front of the parcel. As part of Phase I development roads, water and sewer utility infrastructure was completed for the entire development. A variance for parking was previously granted and a SPDES permit has been issued. The developer has committed to constructing one building per year. The board had no concerns. A motion for approval was made by Mr. Machelor and seconded by Mr. Agronin.

No. 6729 – Town of Wheatfield – Site Plan Review

Request by Robert Hoover of Hoover's Dairy for the Planning Board to review a site plan for the construction of a 30' x 48' pavilion to be used for outdoor dining/gathering of restaurant customers in compliance with current COVID-19 regulations located at 6035 Ward Road. The property is 15.9 acres and is zoned RR, Rural Residential. Kristin Savard of Advanced Design was present to discuss the project. Ms. Savard informed the board that due to COVID restrictions, the restaurant operations would benefit from expanding outdoor seating into the free standing detached pavilion structure. There will be minimal ground disturbance. There are no variances needed and the project meets all town code requirements. A motion for approval was made by Ms. Klyczek and seconded by Ms. Tamburlin. Mr. Garrow abstained. Unanimous. Carried.

No. 6724 – Town of Niagara – Site Plan Review

Request by James T. Runkle for the Planning Board to review a site plan for the subdivision of the parcel (SBL #131.11-1-48.1) into 4 parcels: 0.5 acres, (2) 0.31 acres, and 28.15 acres to allow for the construction of single-family residential homes on the three smaller lots. The property is 29.7 acres and is zoned R-1, Single-Family Residential. James Runkle, owner and James Haight of Invictus Engineering were present to discuss the project. Mr. Haight stated that the owner would like to subdivide the 29.7 acres into 3 lots.

The owner would like to retain the South lot and sell the remaining two parcels to the North. Stormwater and sanitary utilities will be extended when the new lot are developed. There are no wetland or environmental concerns. There is potential to extend the subdivision in the future. A motion for approval was made by Mr. Collard and seconded by Mr. Machelor. Unanimous. Carried.

No. 6725 – Town of Wheatfield – Site Plan Review

Request by The Broadway Group for the Planning Board to review a site plan for the construction of a 9,100 sq. ft. Dollar General Store located at 2300-2314 Niagara Falls Boulevard. The property is 1.14 acres and is zoned C-1, Commercial with Niagara Falls Boulevard Overlay District. Marc Romanowski, attorney and Tara Mathias of Broadway Group were present to discuss the project. Mr. Romanowski stated that a parking variance was approved by the town to reduce the number of required parking spaces to 30. A landscaping plan was submitted and screening will be provided for residents on Cayuga Drive Ext. Truck delivery will be minimal with approximately 1-2 trucks per day. The site layout provides ample ingress and egress for trucks. A motion for approval was made by Mr. Agronin and seconded by Mr. Collard. Mr. Garrow abstained. Unanimous. Carried.

No. 6726 – Town of Wheatfield – Town Code Amendment

Request by the Town of Wheatfield for the Planning Board to review a revision to the existing town code, Chapter 169, Subdivision of Land to address dead ends, cul-de-sacs, and individual sanitary sewer grinder pumps in major subdivisions. Mr. Garrow informed the board that the Town of Wheatfield Highway Department requested the amendment to address subdivision concerns. The board had no issues. A motion for approval was made by Mr. Agronin and seconded by Mr. Machelor. Mr. Garrow abstained. Unanimous. Carried.

No. 6727 – Town of Wheatfield – Area Variances, Site Plan Review, Special Permit

Request by Niagara County Sheriff Department for the Planning Board to review area variance requests, site plan, and special permit for the construction of a 180' self-supporting lattice emergency radio communication tower at 3747 Lockport Road on property owned by Shawnee Volunteer Fire Company. Area variances are needed to allow the tower to be closer than 180' from the property line, a fall zone of less than 180' and tower height greater than 100'. The property is 11.5 acres and is zoned R-2, Residential-2. Chief Deputy Patrick Weidel of The Niagara County Sheriff's Department was present to discuss the project. Chief Weidel stated the tower will be constructed at the rear of the Shawnee Fire Hall property and is needed in order to provide adequate network coverage. The tower will provide service to local schools, local emergency personnel and first responders. Chairman Kibler asked for clarification on the proximity to the baseball diamond. Tim Hennemann, project representative, stated they are approximately 200' from where the tower would be constructed. The site plan was discussed and in the event of a tower collapse there would be no impact on surrounding structures. A motion for approval was made by Mr. Sobczyk and seconded by Ms. Klyczek. Mr. Garrow Abstained. Unanimous. Carried.

No. 6728 – Town of Newfane – Special Permit, Site Plan Review

Request by Omni Navitas Holdings, LLC for the Planning Board to review a special permit request and site plan for the construction and operation of three (3) 5MW utility scale solar arrays. The 115 acre project is located on a remediated brownfield site at 2153 Lockport-Olcott Road. The total property is 308 acres and is zoned G-I, General Industrial. Peter Mcauliffe of Omni-Navitas Holdings was present to discuss the project. Mr. Mcauliffe stated the community solar project will consist of three 5MW solar arrays to the rear of the former chemical plant. Ms. Fisk informed the board that 75 acres of the 308 acres site is a Class 4 NYS Superfund site meaning the property has been remediated and ongoing monitoring and maintenance is occurring. The proposed project area was outside the developed area and there are no concerns regarding contamination. Ms. Fisk stated solar is a good use for former industrial lands and helps preserve agricultural land. The project meets all setback requirements. There are existing utility

transmission lines on the site and there will be no onsite battery storage. Three separate decommissioning plans have been developed (1 for each parcel). No watershed impacts are expected. The site has extensive existing vegetation that will be used for screening and buffering. A motion for approval was made by Mr. Agronin and seconded by Mr. Collard. Unanimous. Carried.

No. 6730 – City of Lockport – Use Variance

Request by Ronald Bernick for the Planning Board to review a use variance request to allow for the operation of a 17,250 sq. ft. health & fitness, sports and recreation center located at 1057 Lincoln Avenue. The property is 1.37 acres and is zoned B-1, Neighborhood Business. Ronald Bernick & Dawn Jelen were present to discuss the project. Mr. Bernick stated that the proposed site will be used as a sports and recreation facility. The plan includes the installation of 4 batting cages, a sprinting track, baseball training facilities and strength and conditioning equipment. The site is adjacent to the roller skating rink and miniature golf course. Ms. Fisk informed the board the surrounding parcels have a mix of zoning that will likely be addressed as part of the City's current comprehensive plan and rezoning efforts. A motion for approval was made by Mr. Machelor and seconded by Mr. Garrow. Unanimous. Carried.

4. *Old Business* – None

5. *New Business* –

- 1.) Ms. Fisk reviewed referral guidance and processes that were provided to the board. Mr. Garrow stated the information is useful and should be considered for future training seminars.
- 2.) The board currently does not have a set of governing by-laws or standard procedures and requested that Ms. Fisk discuss development of such with the County Attorney's Office.
- 3.) The board discussed the need to return to in-person meetings due to the technological difficulties. The June 2021 meeting will have project representatives attend in person with masks and social distancing guidelines in place.

6. *Adjournment* – A motion was made by Mr. Garrow and seconded by Mr. Agronin to adjourn the meeting at 4:20 p.m. Unanimous. Carried.

Respectfully submitted,


Jacqueline Minicucci, Recording Secretary