

The Town of Fenton Planning Board held a meeting on Tuesday, August 29th, 2017, at 7:00 pm, at the Fenton Town Hall, 44 Park Street, Port Crane, New York.

PRESENT: Planning Board Members John Eldred, Chairman
 Richard Armstrong, Board Member
 Jason Aurelio, Board Member
 Patrick Mullins, Board Member
 Brian Randall, Board Member
 Thomas Standard, Board Member
 Tina Fernandez (Hinman, Howard & Kattell)
 Melodie Bowersox
 Legal Counsel
 Town Clerk

ABSENT: Planning Board Member James Keough, Board Member

OTHERS PRESENT: approximately 140 members of the General Public which included some members of the CAC, Town Board, ZBA, News Media, and Representatives of Chenango Valley School District

PUBLIC HEARING

Mr. Eldred stated that the Public Hearing for the Development Permit for NG Advantage at 71 West Service Road has been cancelled and due to the litigation there will be no discussion on NG Advantage. Those in attendance began chanting and shouting various things including that this was not true, that members of the Planning Board should resign, etc. Deputy Akshar had to whistle to bring the crowd to order and asked them to keep the meeting orderly. He also asked a Hillcrest Resident to please sit down. At a later point in the meeting Deputy Akshar needed to cause another individual to take her seat.

MINUTES TO APPROVE

The Planning Board Members were either mailed or emailed the minutes from the Planning Board Meeting held on July 25th, 2017. With no corrections to be made to the minutes from the July 25th, 2017 Planning Board Meeting, **Mr. Mullins made a motion to approve the minutes**, seconded by Mr. Aurelio. **Motion carried.**

VOTE: Ayes 6 Armstrong, Aurelio, Eldred, Mullins, Randall, Standard
Absent 1 Keough
Nays 0

New Business

J. DeMuro Car Sales – 26 Towpath Road – Mr. Joe DeMuro would like to open a small used car lot on 26 Towpath Road. He has been working with Mr. Armstrong, the Assistant Town Engineer, to do all that needs to be done to satisfy the permit requirements for the car lot. Mr. Armstrong distributed a copy of the 239 Review that he received back from Broome County yesterday to the Planning Board Members at the meeting. Broome County Department of Planning and Economic Development, Broome County Health Department (BCHD), and New York State Department of Transportation (NYSDOT) reviewed the application. One question was asked: “Does the parcel have private or Municipal sewer and water?” This parcel has

private sewer and water. BCHD commented, recognizing the potential to cause issues with the well and the septic system to avoid repair of vehicles on the site. Mr. DeMuro's application is for the sale of a maximum of five vehicles on the property and he is leasing a portion of that property from the existing owner. There are common toilet facilities in the building for a couple of businesses that are there so the one comment that came from BCHD is associated with avoiding car repairs on the site. There was also a comment from NYSDOT: "If any work is to be conducted within the State right-of-way, the applicant will require an approved Highway Work Permit prior to the commencement of this work. The applicant may contact the NYSDOT Broome Residency at (607) 775-0522 for more information." An additional statement was made that "nothing may be placed within the State right-of-way, including advertising signage, vehicles for sale, or customer parking." Mr. Armstrong spoke with Mr. Murphy of NYSDOT today and this parcel is on a Town road not a State road. Additional comments received from Broome County Department of Planning and Economic Development included:

- *The project should include a spill prevention plan.* Mr. Armstrong will work with Mr. DeMuro on this. This would include checking the vehicles daily to see if there is any loss of fluids.
- *The conditions of approval should include:*
 - *maximum number of vehicles allowed to be displayed at any given time,*
 - *no outdoor tire storage,*
 - *no onsite repair,*
 - *no leaking vehicle fluids,*
 - *no parking in the setback area.*

There will be five vehicles for sale maximum. The forward edge of the vehicles are not to exceed the forward edge of the building on the property.

- *The site plan should include:*
 - *existing and proposed uses,*
 - *setbacks,*
 - *signage,*
 - *customer and employee parking spaces,*
 - *five parking spaces for vehicle display.*

Mr. DeMuro has indicated that the signage will comply with the Town's requirements and he is actually looking at a smaller sign. He will seek licensing from the State to be an automobile dealer. There is adequate space on the parcel he is leasing for customers to park who may stop to look at the used cars.

Without the floor being officially opened for discussion by the Chairman, those in the audience began to ask questions and make comments in regard to the 239 Review process. (Questions were also asked at the end of the meeting about it and are included in this portion of the minutes.)

- An inquiry was made as to whether the Planning Board gave all 239 Reviews this level of review and scrutiny (as Mr. Armstrong just did) in comparison to the NG Advantage 239 Review. Mr. Armstrong commented that many hours were spent on the 239 Review and are spent on each project including multiple correspondences between the Town, the agencies that are questioning, and the applicant. Further, often times if we have the response to the inquiries, it comes from the Town. If it is specific to the application or the applicant, the applicant will be asked by the Town to address the inquiry that comes from the agency(s) then that response will be conveyed typically by himself to the County to complete that process.

- There was concern as to when the Planning Board received this particular 239 Review from the County and whether they had adequate time to review it.
- Mr. Armstrong explained the 239 Review process. The submission form is issued to the County. The County and the agencies have 30 days to respond with comments and questions associated with it.
- Atty. Fernandez said that if the County makes a recommendation not to move forward after a 239 Review has been done, there is a term called "supermajority" which means that the Board can decide to vote by supermajority (majority plus one) and they can still move forward despite the 239 Review.
- When the Town Engineer receives the 239 and reviews it, does he pass the same documents onto the Board Members so they can review it? Mr. Eldred replied that he (the Town Engineer) sends them a copy. Do you sit down in an Executive Session and talk about the 239? Mr. Eldred replied no. The individual asking the questions gave his opinion that there should be a time lapse between the distribution (of the 239) and when they receive it and the comments back – everybody could write their comments back to the Chairman. Mr. Mullins commented that if a person comes in for the first time and a 239 has to be done, then the Planning Board would have to tell that person they cannot do any more business with him/her until the 239 is done and if it is received on the day of the meeting, the Planning Board may not make a decision if they have not reviewed it yet.

After the brief discussion, **Mr. Standard made a motion to accept Mr. Joe DeMuro's Car Sales Site Plan**, seconded by Mr. Mullins. **Motion carried.**

ROLL CALL VOTE:

PB Member Mr. Armstrong	Aye
PB Member Mr. Aurelio	Aye
PB Member Mr. Keough	Absent
PB Member Mr. Mullins	Aye
PB Member Mr. Randall	Aye
PB Member Mr. Standard	Aye
PB Chairman Mr. Eldred	Aye

Mr. Armstrong asked Mr. DeMuro to stop into the Town Engineer's Office on Thursday to work on the basics of the plan.

Old Business

A.L. Burke Inc. – 16 Canal Street – Mrs. Burke would like to move her current business on NYS Route 11 to 16 Canal Street. The 239 Review was received back from the County on August 10th, 2017 and forwarded to the Planning Board Members at that time. Mrs. Burke has a Property Management Business and is looking to improve her opportunities with more space in the building at 16 Canal Street. They own multiple businesses and there is an office portion of this building they intend to use as is. The parcel will also be used for storage of items that are used in the Property Management Business. The 239 Review from the County included:

- *The application should document whether this project is subject to SEQRA.* There is no change of use or structure or site. This is a Type II Action and it is not subject to SEQRA.
- *The Town Planning Board should ensure that the project complies with applicable laws for the storage, handling, and disposal of any hazardous materials.* The only chemicals

at the site are those associated with cleaning of the properties that they handle and manage.

- *The conditions of approval should include no outdoor storage.* The applicant intends to remain within the structure with their materials.
- *The site plan should show the location and enclosure for any dumpster.* There will be no dumpster on the site.

The site plan was reviewed by Broome County Department of Planning and Economic Development. It was also reviewed by Binghamton Metropolitan Transportation Study, NYSDOT, and BCHD who had no comments.

Zoning Board of Appeals Member Cindy Cook asked Mr. Armstrong if he was aware that a variance was granted to the previous owner. Mr. Armstrong is aware of this. Cindy said that the previous owner did not follow the variance. Mr. Armstrong said that it was determined that the property did not meet the Town's parking requirements. The applicant developed a parking plan that satisfied a portion of the parking requirements and satisfied the remainder of that with an agreement with a local area property. They are to park parallel and there was consideration given by the Town's Highway Department to allow for perpendicular parking during those times of year when the road does not require clearing. The variance carries forward with the property to the new owner. The applicant has worked with the local church and has received the same consideration from that church to offset the differences in parking.

Mr. Eldred opened the floor for comments on the A.L. Burke Inc. Project.

- When was the 239 Review received by the Planning Board Members? August 10th, 2017.
- Is there any procedure in place as to when you receive 239s because just right before this with the used car lot you just received it tonight and this one you received August 10th? Is there adequate time to review the 239? Atty. Fernandez said that the 239 that they are reviewing right now was reviewed by the County then sent to the Planning Board on or about August 10th. It is distributed to the Board upon receipt from the County.
- What is the 239 process? Atty. Fernandez said it depends on when it is submitted to the County and when they are done completing their review. Who makes that decision as to when the Board receives it? Atty. Fernandez said that as soon as the Town receives it, it is forwarded to the Board. There is no regulation that requires a certain period of time for the filing of it.
- Mr. Armstrong seems to take the lead in speaking at almost every Planning Board Meeting. Mr. Armstrong stated that he represents the Town's Engineering Office and is speaking on behalf of that Office. The Planning Board Members have the responsibility to take advantage of the material that is in their hands, to make decisions, and to take actions.
- There should be a regulation that a decision is not made unless they receive the materials prior to the meeting.
- The Planning Board's judgement and ability was questioned "when they are not reading anything." Mr. Eldred replied that the material was read.
- Mrs. Burke stated that she is looking to buy an existing building – there is nothing changing with this building. This is the third meeting that she has attended. She said that it has been very frustrating and she understands that the people in attendance have an issue that they want decided, but she asked, "Can you let them (the Planning Board) decide on our project that I've been here for 3 1/2 months? They are asking for

comments about my project.” (There was dialogue between Mrs. Burke and some of those in the crowd that was not audible. There was another loud outburst from the crowd that included clapping, shouting, etc. and Mr. Eldred used his gavel to bring the meeting back to order.)

- What does she use the building for storing? Mr. Eldred answered that she stores her equipment in it and that she is in the Land Management Business. A gentleman with Mrs. Burke said storage would include IT, electrical parts, plumbing fixtures, 2x4s, screws, etc. There are no heavy equipment items or chemicals.

After the comments from the floor, **Mr. Aurelio made a motion to accept the A.L. Burke Inc. Site Plan**, seconded by Mr. Randall. **Motion carried.**

ROLL CALL VOTE:

PB Member Mr. Armstrong	Aye
PB Member Mr. Aurelio	Aye
PB Member Mr. Keough	Absent
PB Member Mr. Mullins	Aye
PB Member Mr. Randall	Aye
PB Member Mr. Standard	Aye
PB Chairman Mr. Eldred	Aye

Carrier Services Group – 1151 Hoyt Avenue – No Activity

At 7:32 pm, **Mr. Eldred adjourned the meeting.**

Melodie A. Bowersox, Town Clerk