

MEETING MINUTES

JEFFERSON COUNTY PLANNING BOARD

August 30, 2016

MEMBERS PRESENT: David Prosser, Chairman, Dean Gillan, Vice-Chairman, Art Baderman, Lisa L'Huillier, Dwight Greene, Bill Ferguson, Clif Schneider, George Yarnall, Deb McAtee

OTHERS PRESENT: Moses Mast, Marcus Wolf, WDT Times

STAFF PRESENT: Andy Nevin, Senior Planner
Sara Freda, Community Development Coordinator

CALL TO ORDER AND ESTABLISHMENT OF QUORUM: Chairman Prosser opened the meeting at 4:03 p.m. and stated that a quorum was present.

APPROVAL OF THE JULY 26, 2016 MEETING MINUTES: Chairman Prosser asked members if they had any comments or changes to the July 26, 2016 meeting minutes. A motion to accept the meeting minutes was made by Art Baderman seconded by Lisa L'Huillier, and carried unanimously.

COMMUNICATIONS: Chairman Prosser asked if there were any communications. There were none.

PUBLIC COMMENTS (OTHER THAN AGENDA ITEMS): Chairman Prosser asked if there were any public comments (other than on agenda items). There were none.

NEW BUSINESS:

A. General Municipal Law, Section 239m Referrals:

1. Town of Champion, Site Plan Review, Moses Mast, JCDP File # T Ch 1 - 16. Sara Freda presented this project to the Board stating the applicant seeks to construct a 1,120 square foot school house. The Board is reviewing this due to its proximity to the municipal boundary.

An aerial photo was used to show the project location. The parcel is located on the County boundary. The site is accessed by two driveways, one in each County.

The site plan was reviewed showing the proposed school house will be 1,120 square feet in size, it also includes an attached 12' x 12' wood shed. The horse barn is approximately 336 square feet and each bathroom outhouse will be 49 square feet.

County issues for consideration included: an Agricultural Data Statement is required and should be submitted to the Town and a Jefferson County building permit will also be required.

There were no local issues found.

Chairman Prosser reviewed the staff recommendation that this is a Project of Local Concern Only.

Motion: To accept staff recommendation of Project of Local Concern with comments as stated above was made by Dean Gillan, seconded by Clif Schneider, and unanimously carried.

2. Town of Brownville, Zoning Amendments, JCDP File # T Br 1 - 16 **George Yarnall stated he would abstain from voting on this project.** Andy Nevin presented this project to the board stating the Town proposes to adopt regulations and standards regarding Wind Energy Facilities. The Board is reviewing this due to its proximity to the municipal boundaries.

Andy stated the Board members were given copies of the proposed zoning amendments in their monthly mailed packets for prior review. He stated these amendments included reference to a Wind Power Overlay District and showed a sketched area of that district on the locator map.

Andy reviewed various sections that addressed required permit types, setbacks, noise regulations, neighbor waiver provisions, transportation routing, and findings. He noted inconsistencies and sections that may conflict. He also reviewed the waiver provisions to be approved by planning board action.

Staff felt that at first glance, it seems like the local board used sections of zoning laws and sections of other separate wind laws to piece this together and it resulted in some conflicting material that warrants a number modifications to allow it to function as intended.

County related items staff would like to highlight include:

The local board should ensure that this amendment is consistent with any current master plans or vision for the Town.

The local board should include a requirement for proposed projects to consult with Fort Drum officials to limit any potential impacts on airfield or aircraft radar operations and future training activities in the area.

The local board should consider establishing setback provisions from the Perch River NYS Wildlife Management Area, a recognized significant bird migration stopover and habitat area, as well as the Dexter Marsh Wildlife Management Area and the other recognized wildlife habitats within the Town or in nearby Towns.

Local issues for consideration by the local board:

Throughout the law there is reference to different permits required for commercial WECS. Article 3B WECS - General Requirements requires a WECS Permit and later, a special use permit. Within Article 6, Standards for WECS the Town's Site Plan Law is referenced. To limit confusion, the review that relates to the zoning law should be clearly stated if the intent is to regulate WECS through the zoning law.

The proposed setback and noise waiver provisions to be granted by the Planning Board deviates from the standard procedure for area variances granted by the zoning board of appeals. Typically, setback variances are granted through an appeals process which weighs each case against a series of tests established by State Law as opposed to only the neighbor's consent. The waiver process should not preclude the establishment of a safe distance from nearby residential yards or structures.

In addition, multiple waiver procedures in the law appear to be designed to permit a number of opportunities to relax the standards as opposed to maintain them to protect public health, safety and welfare. The Town's standards should only be waived or varied if the NYS Town Law tests for area variance are met.

For example, the Setbacks and Noise Standards, state "In the event a Wind Energy Facility does not meet a setback requirement or exceeds noise or other criteria a waiver will be granted from such requirement by the Planning Board". This clause appears to offer an automatic approval if a violation occurs, as opposed to triggering an enforcement action designed to maintain safety and noise standards. More specific enforcement provisions should be included to ensure the requirements are met.

Further, the written consent by neighbor provisions also offers relief, as opposed to using a standard zoning board of appeals procedure designed to protect the intent of the standards and only vary them when warranted through the proper ZBA process as enabled through NYS Town Law.

The local board should consider whether the proposed noise regulation procedure will be adequate to protect property owners from attributable noise caused by WECS. While ambient noise is defined, it does not appear to have a clear methodology to establish it especially noting seasonal variation. Further, a monitoring procedure taking into account seasonal ambient changes should be considered.

The procedure for establishing the traffic routes should also require County and State Roads to be considered and obtain the necessary permits for their potential safe use as well.

The definition of a residence does not appear to include Amish homes as they do not have plumbing and electric service. Therefore, safety and noise setbacks may not apply to such residences. This oversight should be corrected in the final version.

Some site plan requirements refer to setbacks that differ from the required setback standards. The required setbacks should be the same as the required site plan concentric circles for clarity.

Other observations:

- Finding B.1. does not appear to be a finding, it reads like a requirement. Similarly, Finding B10 states a finding but then allows Commercial Wind Energy Facilities within the Wind Power Overlay District.
- The definition of site appears to address the site boundary. However, clear provisions should be included for where safety and noise setbacks are to be measured from.

- Article 20. Small WECS Development Standards C. paragraph 1. refers to 20 feet or less for a tower height, it wasn't clear whether this was a typographic error.
- The fee amounts are included in this amendment. It is recognized that zoning fees are better established within a resolution by the Town Board which wouldn't need a zoning law amendment process to alter in the future.
- The enforcement provision states that the Town Board and/or Planning Board shall appoint such Town staff or outside consultants. While the Planning Board may recommend representatives, they are not authorized to make appointments.
- The local board should refer the law to the Town Attorney to confirm the applicability of certain provisions such as the Planning Board requiring a financial audit of the wind company, and the approval of WECS permit transfer, stock transfer, or sale of the ownership of the project.

Chairman Prosser asked if there was a timing issue to pass this or could a moratorium be considered so they could take their time fine-tuning these amendments? Andy did not know whether there was a timing concern at this time, but neighboring Towns are currently going through an Article 10 with their wind regulations so it might be a concern. Clif Schneider also suggested they get some input from those neighboring Town's that have already been through the process of wind regulation before they finalize their amendments.

Chairman Prosser expressed his concerns that he is not comfortable with a motion of approval with so many issues identified. He suggested having the Planning Department staff have a support meeting with the local board, and Andy mentioned that staff has reached out to them and offered their assistance. Bill Ferguson agreed there are many technical issues that need to be addressed and he will get with staff on the specifics he sees so that feedback can be provided when staff meets with the local board.

Chairman Prosser asked Andy for clarification of the four motions the County Planning Department can reach and it was stated: Project of Local Concern Only, Approval, Disapproval, or Approval with Modifications. Chairman Prosser asked if they can consider the project incomplete with the amount of issues that need to be addressed, and Andy stated he didn't think that was possible at this point in the timeline of the review process. He noted that the staff accepted the proposal as a full statement. Board members were concerned that staff just received the map of the area affected today so that makes it hard for staff and the Board to have a complete project for review, but staff noted the Town is looking for feedback prior to its scheduled public hearing.

Chairman Prosser reviewed the staff recommendation to pass a motion of Approval with Modifications relating to the County issues and local comments as stated above.

Motion: A motion was made to disapprove the project as it currently stands was made by Chairman Prosser, seconded by Dean Gillan, and unanimously carried with one abstention.

3. Village of Clayton, Site Plan Review, Clayton Improvement Assoc., JCDP File # V CI 3-16 Sara presented this project to the Board and stated the applicant is proposes a parking lot expansion to serve the current health clinic. The Board is reviewing this due to its proximity to NYS Route 12.

The project is shown on the locator map as 913 Strawberry Lane in the Village of Clayton. Using recent site photos and the submitted site plan, Sara explained the site consists of an office building and a series of senior citizen cottages and the proposed parking lot will be located behind the office building. The parking lot will be utilized by both the housing authority and the adjacent medical center.

The lot will consist of 19 parking spaces and one established tree will be removed to accommodate the expansion. There will be three LED lights in the new lot. Drainage will be towards the east to an existing catch basin.

Sara mentioned the following local issues identified by staff:

The local board should consider requiring adequate screening and buffering between the proposed parking lot and the adjacent residential properties.

The local board should ensure the adjacent residences are adequately shielded from the proposed lights.

The local board should ensure the proposed grading does not adversely impact adjacent properties.

4. Village of Dexter, Special Use Permit, Steven Mizcala, JCDP File # V Dex 3 - 16 Sara also presented this project to the Board and stated the applicant proposes a small Italian styled restaurant with sit-in, take-out and delivery service. The Board is reviewing this due to its proximity to County Road 59.

Sara indicated the project on the location map and an aerial photo as 544 Lakeview Drive. The site is zoned Residential 2 and the applicant received a use variance late last year to operate a restaurant on site.

The proposed site plan shows the site is accessed by two driveways; one onto West Grove Street and one onto Lakeview Drive. There will be 13 dedicated parking spaces. Sara explained that the applicant proposes to utilize less than half of the existing building, as indicated on the site plan. They will serve pizza, wings and other Italian dishes and plan to be open 7 days a week. The applicant expects to have a small eat-in area that can accommodate up to 25 guests.

Only County comment is a NYS Department of Health (DOH) permit is required.

Local comments include:

The local board should ensure there is adequate off-street parking and loading spaces. While the zoning law requires one space per 60 square feet of gross floor area used for restaurants, it also allows the Planning Board to modify this through the Special Use Permit process.

Signage is limited in the R-2 District to one sign, no more than four square feet in size. The plans depict three signs, with a total of 90 square feet. An area variance is required to exceed the signage requirements.

The local board should ensure the conditions of the Use Variance are met as part of its review for the Special Use Permit:

1. A fence barrier between the restaurant and 542 Lakeview Drive is required.
2. Downward lighting that does not disturb the neighboring properties is required.
3. Trash will be contained and enclosed at all times.

The plan indicates "barn" lighting will be attached to the buildings sides. The local board should determine if the proposed lights meet the condition stated above.

The site plan does not depict a barrier fence or any type of trash enclosure. The local board should ensure that the fence and trash are adequately addressed as conditioned by the Use Variance.

5. Town of Lorraine, Area Variance for a side yard setback, Shelmidine Family, JCDP File # T Lo 2 - 16 Sara also presented this project to the Board and stated the applicant is proposing a subdivision which requires a side yard area variance for an existing garage. The Board is reviewing this due to its proximity to County Road 93.

The property is shown on the aerial map as 21081 County Route 93 and the neighboring parcel. The same family owns both parcels currently. The requested variance is a result of a proposed subdivision to adjust the property line between the two parcels to give more access to an existing garage. They propose to subdivide off a strip of land, approx. 12' x 80' in size. As a result, the garage will not meet the required side yard setback.

The property on the left is zoned Hamlet while the property on the right is zoned Rural, as a result the new parcel will have split zoning.

No County issues were identified. Local items to consider include the following:

The local board should require the applicants to combine the subdivided strip with the lot located to the west (Parcel 119.08-1-43) by filing an updated subdivision map and revised deed with the County Clerk. The Town should also consider changing the zoning on the strip of land to be conveyed from Rural to Hamlet so the entire parcel is zoned one district.

When considering the requested variance, the local board should consider and weigh the five tests for an area variance, as stated in NYS General Town Law.

Dean Gillan suggested it would be much easier of a process to just secure a maintenance easement instead of going through the subdivision and variance process. Sara stated she would pass that along to the local board.

6. Town of Orleans, Site Plan Review, Anchor Development LLC, JCDP File # T Or 9 - 16 Andy Nevin presented this project to the Board and stated the applicant proposes two 15,000 square foot storage buildings. The Board is reviewing this due to its proximity to

County Road 191 and Interstate 81.

The site location was shown with an aerial photo and recent site photos. (The project site was reviewed a few years ago by the Board for a cell phone tower). Reviewing the site plan, Andy stated the applicant is proposing two 15,000 square foot storage buildings with electricity, but no heating or plumbing. He reviewed the wall pack lighting and drainage proposed.

There are currently other storage facilities and offices onsite as this is a multi-functional site for trucking companies. Andy stated the purpose of the new buildings is to expand current warehouse and storage space to support local and international business as they provide services and transport goods along the I81 corridor.

Two comments for the local board are as follows:

A Jefferson County Building Permit will be required.

The application states that LED wall packs with downward directional shielding will be utilized. The local board should ensure lighting and any potential glare will be kept onsite in order to minimize impacts on any nearby properties and adjacent Interstate 81 and CR 191.

Chairman Prosser reviewed the staff recommendations that projects #3-6 are of Project of Local Concern Only.

Motion: To accept staff recommendation of Project of Local Concern with comments as stated above for projects #3-6 was made by Dean Gillan, seconded by Lisa L'Huillier, and unanimously carried.

B. Other Business

Chairman Prosser asked if there were any more thoughts on changing the meeting time as discussed last month. No one had any concerns with the current time so it was decided to leave it at 4 pm.

Andy informed the Board there will be a training session on Sept. 20, 2016 on wind regulation.

Adjournment

A motion was made by Dean Gillan, seconded by Art Baderman, to adjourn the meeting at 5:10 p.m.