

MEETING MINUTES

JEFFERSON COUNTY PLANNING BOARD

September 27, 2016

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

OTHERS PRESENT: Gunther Schaller, Kim Allen, Mike Colello, Marcus Wolf, WDT Times

STAFF PRESENT: Michael Bourcy, Senior Planner
Sara Freda, Community Development Coordinator

CALL TO ORDER AND ESTABLISHMENT OF QUORUM: Chairman Prosser opened the meeting at 4:00 p.m. and stated that a quorum was present.

APPROVAL OF THE AUGUST 30, 2016 MEETING MINUTES: Chairman Prosser asked members if they had any comments or changes to the August 30, 2016 meeting minutes. A motion to accept the meeting minutes was made by Dean Gillan seconded by Deb McAtee, 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 Clayton, Zoning Amendment, JCDP File # T Cl 7 - 16. Michael Bourcy presented this project to the Board stating the Town is proposing the adoption of a new Wind Energy Facility Law. The Board is reviewing this due to its proximity to NYS Route 12/12E and the municipal boundary.

Michael explained that these are updates to the Town's current wind law which is separate from their Zoning Ordinance. He said that in the Zoning Ordinance they have designated a Wind Energy Facility Overlay District as the only district that allows for large wind system projects.

A slide was shown detailing the change in setbacks for the proposed law vs the current law.

- Wind Energy Conversion Systems are now being classified as Large Wind Energy Facilities and their setbacks are:
 - Structures – currently 1,250'; proposed 1 mile
 - Roadways – currently 500'; proposed 1 mile
 - Lot Lines – currently 500'; proposed 1 mile
 - Max Height – staying at 500'

- New - Proposed setback of a minimum of 5 miles from any operating radar facility.
- Small Wind Energy Conversion Systems are being classified as Small Wind Energy Facilities and their current lot line setback is 1.5x height with the new law proposing 2.5x height with a max height of 120'.
- Met towers are staying the same at 1.5x height, with a proposed max height of 195'.
- The new proposed law includes two other designations of IAMD (Lidar) and SODAR (Sonar) which have setbacks of 500' and 2,000' respectively, with a max height for both of 20-35'.

The other major change in the proposed law is the change from the current 45 dBa noise guideline to separate guidelines for daytime vs nighttime, with the night being 5 dBa quieter.

Michael reviewed the following County comments.

The Town is taking a proactive approach to regulating the potential development of wind energy facilities in the Town by reviewing and updating their existing Wind Law.

The Town should be aware that the proposed setbacks of one mile would require the need for setback easements/variances for the location of the towers.

The local board should contact Fort Drum to determine if towers located in the Town would have impacts that negatively affect the Fort's ability to maintain training activities or the airfield/aircraft radar and operations.

While the Town identifies the potential for birds to be impacted by turbines there are no specific setbacks from NYS Wildlife Management Areas and other recognized wildlife habitats within the Town or in nearby Towns. The Town should consider a specific setback from these areas.

The proposed Wind Law is separate from the Town Zoning Ordinance. A wind energy facility is a land use and the Town should consider including these regulations as part of their existing zoning ordinance where there is an established and court affirmed process for review, variances and enforcement.

If the intent is to adopt a wind law that does not fall under the authority of NYS zoning enabling statutes then it is believed that the municipality should specifically state in the wind law that they are superseding Town Law Section 261.

All land use regulations adopted under Town Law Section 261 must be in accordance with the Town's Comprehensive Plan under Town Law Section 272-a. The Town should determine whether a proposed Wind Law that is not adopted under the authority of Section 261 is still required to be in accordance with the Plan and therefore does not potentially weaken the Town's Wind Law under an Article 10 process.

Local comments identified by staff:

As proposed in the Wind Law, setback easements allow the landowner to grant smaller

setbacks between their residence and a turbine. This action does not allow for an impartial board to review such requests. Under zoning, 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 landowner's consent. The easement process should not preclude the establishment of a safe distance from nearby residential yards or structures.

The proposed requirements for potential property value decreases to be reimbursed to landowners and the financial stability and sale of LWEFs regulations appear to go beyond the traditional scope of land use controls. The local board should verify whether these provisions are consistent with the authority granted for land use controls by NYS Town.

The proposed Wind Law references the need for a special use permit for MET towers. The Zoning Ordinance lists Wind Energy Facilities, which includes MET towers, as a permitted use with the issuance of a Wind Energy Permit. This appears to be a conflict. The proposed law also references special use permits in the section on planning board decisions.

Under the Enforcement Section, it states that the Town Board and/or Planning Board shall appoint such Town staff or outside consultants. The Planning Board may make a recommendation to the Town Board on the hiring of a consultant.

The proposed setbacks are listed from structures, but the term structure is not defined.

A fee schedule is included in the proposed law. It is recommended to not have a fee schedule within the law because if you change the fee you have to go through the process of an amendment to the law. The Town Board can adopt a fee schedule through a motion or resolution.

Chairman Prosser and George Yarnall asked about the reimbursement process if the landowner believes their property has been devalued. Michael stated that there is a process set forth within the law that the landowner would follow and the company would be paying the reimbursement directly.

Bill Ferguson asked about the allowance on setbacks for small wind energy facilities and what the process is to request a variance. Michael stated he would make a recommendation back to the local board to address that concern.

Gunther Schaller, a Clayton resident, addressed the Board and thanked the staff for a thorough review of the proposed law. He expressed his wishes that the Town Board extend the current moratorium, like the County Planning Board suggested back in April, so the Town Board could finalize their Comprehensive Plan and update their Zoning Law. He also stated the 1 mile setback would make it nearly impossible to build any facility in Clayton and opens them up to more litigation. He feels like the extension of the moratorium would give them more time to clean up the discrepancies in the current proposal.

Chairman Prosser reviewed the staff recommendation that the Board pass a motion of Approval with local comments as stated above.

Motion: To accept staff recommendation of Approval with comments as stated above was made by Dean Gillan, seconded by Dwight Greene, and unanimously carried.

2. Town of Clayton, Zoning Amendment, JCDP File # T CI 8 - 16 Sara Freda presented this project to the board and stated the Town is proposing minor amendments to the definition section in the Zoning Ordinance. The Board is reviewing this due to its proximity to NYS Route 12/12E and the municipal boundary.

Sara stated the Board received a copy of the amendments in their mailed packet for prior review. The amendments include the addition of definitions for Industrial Use, Heavy Industry, Light Industry and Manufacturing Facility as well as a revised definition of Public Utility.

Items of consideration include:

New York State Town Law requires zoning amendments to be made in accordance with a Comprehensive plan. The local Board should ensure that the proposed amendments are consistent with the goals and objectives of the Joint Town and Village of Clayton Comprehensive Plan and the Local Waterfront Revitalization Plan.

The proposed term "Heavy Industry" is not specifically listed as a permitted, site plan or special use permit use in any districts in Schedule A - Use Restrictions table found in Article V of the Zoning Ordinance. The local board should determine if this is their intent.

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

3. Town of Hounsfield, Area Variance, Kim Allen & Neil Freeman, JCDP File # T Ho 2 - 16 *Lisa L'Huillier stated she would be abstaining from this project.* Michael Bourcy presented this project to the board and stated the applicants are proposing to convert an existing residence into office space. The Board is reviewing this due to its proximity to NYS Route 3.

Michael showed the site on an aerial photo and a current site photo showing it as a single family home. There is a trailer currently on the property that will be removed. The applicants are requesting variances for rear yard setback and lot size. The property is located in the Mixed Use District and the Arterial Corridor Protection District Overlay. The lot size is currently 1.67 acre and the minimum is 2 acres while the rear yard setback is 8' while the requirement is 75'. The project needs to meet these requirements due to the change of use from residential to commercial.

Michael reviewed County identified issues:

A Jefferson County Building Permit will be required for the change of use.

NYS Department of Transportation staff said that due to the change of use they will look at the access onto NYS Route 3. DOT staff indicated that they would require that there be only one access onto NYS Route 3. The remaining driveway would be allowed to be widened to meet commercial driveway standards.

The amount of traffic into the property was discussed and the applicant, Kim Allen, spoke and said it was a financial services business and they have about five cars that would be in and out every day as clients and then five to six employees, so traffic would be minimal.

Dean Gillan and Bill Ferguson said that NYSDOT may not require changes to the access since delivery trucks would not be accessing the site and the traffic number would be low.

The parcel and surrounding parcels are part of the Southwest Agricultural District. This is an existing building and should have minimal to no impact on the agricultural operation.

Only local comment was when reviewing the variance requests, the ZBA must weigh the benefit to the applicant against the detriment to the health, safety, and welfare of the community using the five tests for area variances as stated in NYS Town Law.

Chairman Prosser reviewed the staff recommendation that this was 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 Bill Ferguson, and unanimously carried with one abstention.

4. City of Watertown, Site Plan Review, Rainbow Restoration, JCDP File # C 8 - 16 Sara presented this project to the Board and stating the applicant is requesting to construct a 3,466 square foot addition to the existing Rainbow Restoration building. The addition would consist of equipment storage and office space. The Board is reviewing this due to its proximity to NYS Route 3.

Sara indicated the project location as 123 Coleman Ave, behind the Arsenal Street Burger King. The 3,466 square foot addition will consist primarily of equipment storage and office space to be located at the rear of the existing building. The site plan was displayed and some additional paving was shown in the front to accommodate new parking and a small amount in the rear. The site is accessed via two driveways onto Coleman Ave; the northern driveway is for exiting while the southern one is an entrance only.

Sara said that while no County issues were identified there is the following local comments.

The proposed commercial use requires 16 parking spaces while 13 are provided. The local board should ensure there is enough on-site parking provided or request the applicant apply for a variance.

The local board should ensure that any increase in drainage does not impact the adjacent properties.

The local board should ensure the existing residences located to the rear of the proposed addition are adequately screened through the use of existing and proposed landscaping.

The applicant, Mike Colello, was in attendance and stated that they would provide the 16 parking spaces in lieu of applying for a variance and would make sure the landscaping was adequate in the rear. He stated the blacktop shown in the rear on the site plan is currently there and there was no previous issue with drainage.

Chairman Prosser reviewed the staff recommendations 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 Bill Ferguson, seconded by Deb McAtee, and unanimously carried.

5. Village of Dexter, Christopher Littell, Special Use Permit, JCDP File # V Dex 4 - 16 George Yarnall and Deb McAtee both abstain from this project. Sara presented this project to the Board and stated the applicant is requesting a special use permit to operate a vehicle maintenance business. Applicant is also considering sales of aerial lift equipment and vehicles. The Board is reviewing this due to its proximity to the municipal boundary and NYS Route 180.

Sara showed the property's location on the map as 349 Lakeview Drive. The applicant is proposing a vehicle maintenance facility within an existing building and auto and equipment sales on site. A site plan was displayed showing the auto sales and equipment sales and display areas will be located along the street with a new overhead door at the rear of the building. The plan also indicated that clean fill would be brought in to the rear of the site. It was also clearly shown in the image that there is no defined access point onto Lakeview Drive.

The only County comment was the proposed vehicle maintenance shop shall comply with all applicable federal and state environmental regulations.

Local items discussed by Sara included:

The local board should request the applicant submit a site plan which clearly depicts the existing conditions and proposed development.

The application mentions there will be auto and equipment sales but it does not provide details about their display. The local board should consider requiring adequate landscaping and buffering between the proposed display areas and the existing residential properties to the north.

The applicant also states fill will be added to the rear of the existing building but does not provide specific details for the new elevation and how that fits in with the site's overall circulation.

The local board should consider reducing the amount of direct access to Lakeview Drive. The local board should discuss this with the Village DPW.

The applicant states there is no signage proposed at this time. Signs in the Industrial District require a Special Use Permit.

Chairman Prosser reviewed the staff recommendations that project 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 Bill Ferguson, and unanimously carried with two abstentions.

6. Village of Dexter, Special Use Permit, Carol Corliss, JCDP File # V Dex 5 - 16 Sara also presented this project to the Board and stated the applicant is proposing a home occupation to sell refurbished furniture and home décor. The Board is reviewing this due to its proximity to the municipal boundary.

Sara showed the location of the project with an aerial photo as 410 West Grove Street. The site plan shows the construction of a 14 foot by 24 foot accessory structure to be located in the front yard of an existing single family residence. The applicant states she will sell refurbished furniture from the building.

No County issues were identified.

Sara reviewed the following local comments.

The definition of Home Occupation states, "The use cannot have any exterior storage, display or other evidence of the occupation". The local board should ensure these provisions are met by including them as conditions of the special use permit.

The local board should consider the special use permit criteria listed in the Zoning Law, in particular whether or not the proposed use will alter the character of the lot. Siting the proposed building in the front yard could seem contrary to this criteria.

The site plan should clearly depict all required setbacks as measured from the property lines. It appears the dimensions on the proposed structure are reversed. The local board should clarify this, especially where it may impact the side yard setback. The zoning law requires a 25 foot front yard setback and a 5 foot side yard setback for accessory structures. It appears that these setback are not being met. Any reduction in required yards would require an area variance.

Signage is limited to one professional sign with a maximum of 4 square feet in the Residential 1 District.

Bill Ferguson asked for clarification if she is selling refurbished furniture, or if she is actually going to be refurbishing the furniture herself that she will be selling. The concern is the chemicals and the toxic fumes. It was the staff's opinions from previous meetings that the building would be the sales area only, but it was never discussed where she would be doing the actual work. Sara indicated she would include a comment back to the local board to address that.

George Yarnall asked if there was adequate parking and the site photos showed she does have an oversized driveway to fit numerous cars and there would be temporary parking on the street.

Chairman Prosser reviewed the staff recommendations that projects #2 & 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 #2 & 6 was made by Art Baderman, seconded by Lisa L'Huillier, and unanimously carried.

7. Town of Watertown, Zoning Amendment, JCDP File # T Wa 4 - 16 *Chairman Prosser stated he would abstain from this project.* Michael presented this project to the Board stated the Town is proposing amendments to the existing sign control law. The Board is reviewing this due to its proximity to the municipal boundary.

Michael gave a brief overview of the current changes:

- Event sign was added as a new definition
- Prohibited signs section: added advertising flags that extend 24 inches or more horizontally from a pole or structure.
- Exempt temporary signs section: added event signs.
- Exempt signs section: added advertising flags that extend 24 inches or less horizontally from a pole or structure.
- Sign standard section:
 - Off premises signs and off premise multi-tenant signs now allowed in the Business, Neighborhood Commercial and Manufacturing Zoning Districts.
 - Businesses allowed one free standing sign on each side of property with frontage on a public road.
 - Multiple businesses on a single parcel shall be included on a multi-tenant sign.
 - 15 foot setback from lot lines applies to exempt signs.
 - No business signs allowed in residential districts
 - Vehicles used for advertising shall not be parked within 15 feet of right of way.
- Billboard section: allowed in Neighborhood Commercial District along I81.

Only comment identified by staff is the regulations on flag type signs divides the size of the flags by extending 24 inches or less and 24 inches and more from a pole. A flag that extends 24 inches would fall into both categories. The local board should change one of the regulations to not include 24 inches.

Vice Chairman Dean Gillan reviewed the staff recommendations that project 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 Deb McAtee, seconded by Art Baderman, and unanimously carried with one abstention.

B. Intergovernmental Reviews

1. Village of Deferiet, USDA Rural Development, JCDP File # 7 - 2016. The Village of Deferiet is planning to upgrade its existing wastewater treatment plant. The improvements are designed to reduce contracting out repairs to the influent pump station, to increase the capacity of the generator during power outages and to reduce chances of equipment failures. The total cost of the project is \$840,000. The Village is applying for \$378,000 in funds from the USDA Rural Development and for funding through the NYS Water Quality Improvement Grant that is administered through the DEC. They are eligible for up to \$549,100 (85% of the total construction costs) with that grant. A motion was made by Chairman Prosser, seconded by Dean Gillan, to send a

letter of support to the Village of Deferiet.

C. Other Business

Michael stated there is another training session to be held at JCC on October 24th with Attorney Scott Chatfield. The topic will be a Q&A session and any members with questions should submit in advance to staff.

Adjournment

A motion was made by George Yarnall, seconded unanimously, to adjourn the meeting at 5:10 p.m.