

The Town of Fenton Planning Board held a meeting on Tuesday, April 24th, 2018, 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 Michael Pipher, Board Member Maureen Singer, Board Member Thomas Standard, Board Member
	Deputy Town Clerk Legal Counsel	Sheryl Fay Tina Fernandez (Hinman, Howard & Kattell)
ABSENT:	Planning Board Members Town Clerk	Brian Randall, Board Member Melodie Bowersox

OTHERS PRESENT: 27 members of the General Public which included Town Board Member Michael Husar and Zoning Board of Appeals (ZBA) Member Cindy Cook

CALL MEETING TO ORDER

Mr. Eldred led in the Pledge of Allegiance.

WELCOME NEW PLANNING BOARD MEMBERS

Mr. Eldred asked those in attendance to welcome new Planning Board Members Mike Pipher and Maureen Singer. Mr. Eldred said they will be a huge help.

MINUTES TO APPROVE

The Planning Board Members were either mailed or emailed the minutes from the Planning Board Meeting held on March 27th, 2018. The following corrections were noted:

- Under Introduction of Project: John stated that the Binghamton Precast project was approved in July 2017. It should be July 2016.
- All persons desiring to be heard, having been heard, Mr. Eldred continued on with the meeting at 7:25 pm. The Public Hearing was not closed.
- **Mr. Aurelio made a motion for the Planning Board to declare the role of Lead Agency for Binghamton Precast**, seconded by Mr. Randall. **Motion carried.** The motion should have been to declare the Planning Board's intent to assume the role of Lead Agency for Binghamton Precast.

With corrections to be made to the minutes, **Mr. Armstrong made a motion to approve the minutes**, seconded by Mr. Aurelio. **Motion carried.**

VOTE: Ayes 6 Armstrong, Aurelio, Eldred, Pipher, Singer, Standard
Nays 0
Absent 1 Randall

NEW BUSINESS

R. DeVincentis Construction, Inc. – 131 Nowlan Road (formerly Dot Tool Co., Inc.) – Change of Ownership and Use

- **Introduction of Project** – Roberto DeVincentis said the building was purchased from Dot Tool, which was going out of business. There will be no manufacturing done there as the business in the past had used the location for. The site will be used for storage of materials, especially office equipment (copiers, desks, chairs) and small electric tools. Their other location on Brick Avenue is located in a flood plain which was flooded in 2011. As a result they lost a lot of valuable papers and they were looking for a property where they can be on high ground. Additionally, they are looking to remodel a couple of the offices to be used for office space with three or four cars parked. Supplies may be delivered a couple of times a week by a flatbed truck. None of the supplies are hazardous materials which would require a special permit. Roberto gave an overview of the history of the company and some of the past projects as well as current projects, stating the company is environmentally sensitive.
- **239 Review** – Mr. Armstrong stated the 239 Review material was issued to Broome County on April 5th, 2018, which included the 239 Review Submission Form, the Applicant's application for Site Plan Review (which included a floor plan of the interior of the building, a property survey, a summary of the work that would occur which included the removals, installation of some walls and clean-up on the inside and some site work), the Aquifer Development Permit Application and a Site Plan. The Site Plan showed some amendments to the property's exterior, which included changes to the gravel parking which exists near the building with some expansion, a retaining wall, some French drains on the railroad side of the parcel and the introduction of some underground storm drainage on the Nowlan Road side of the parcel. A portion of the drainage efforts on the Nowlan Road side of the parcel will occur partially on the acquired parcel and partially on the Nowlan Road Right-of-Way. Mr. Armstrong then went through the summary provided by Broome County: The County acknowledged receiving the request. As part of that review, the Planning Department has reviewed the above-cited case and has not identified any significant countywide or inter-community impacts associated with the proposed project; however, the following comments were provided:
 - The Town Planning Board should insure that the proposed project complies with the Town of Fenton Aquifer Protection Ordinance and all applicable laws or the storage, handling, and disposal of hazardous materials. A reference is made to comments from the Broome County Health Department.
 - The Aquifer Development Permit application should also describe the material storage, including quantities, containment, locations, and chemical data sheet, if applicable. The Aquifer Development Permit application should indicate whether the minor storage, piping and other job materials that would be stored outside would include hazardous or material residue from the job site. The Aquifer Development Permit application should also include whether the project would include onsite washing and cleaning of construction vehicles and materials.
 - The project should include a spill prevention and response plan.
 - The site plan should include the following:
 - ✓ limits of the outdoor storage area
 - ✓ contents of the outdoor storage area
 - ✓ any petroleum or chemical storage and appropriate containment
 - ✓ parking spaces
 - ✓ dumpster
 - ✓ vehicle and equipment washing and cleaning area, if applicable

- The case file was routed to the following agencies for review:
 - ✓ Binghamton Metropolitan Transportation Study (BMTS)
 - ✓ Broome County Department of Public Works (DPW)
 - ✓ Broome County Health Department (BCHD)
- Comments from the BCHD: If petroleum or chemical storage is planned for this property, it should be done inside the building to prevent accidental spills or leaks from contaminating soils and groundwater. If outside chemical/petroleum storage is unavoidable, it should be done over an impervious surface or with secondary containment.
- Comments from DPW: The above referenced "239" has been reviewed by the DPW Engineering Division, and the following is pertinent: This application includes a request for a Site Plan Review for Building Renovations and Site Improvements at 131 Nowlan Road, Town of Fenton. Based on the site plan provided, it appears the applicant intends to install a portion of a closed drainage system within the County Right-of-Way. Please be advised that any work done in the County Right-of-Way will require a Highway Work Permit issued by the Broome County Highway Department. There are no additional apparent impacts to any adjacent Broome County infrastructure, and therefore the DPW Engineering Division has no additional comments related to the proposed Site Plan Review.

Questions and comments regarding the 239 Review:

- Mr. Armstrong – Is there any potential for what is considered toxic or hazardous materials, whether it would be liquids, gas or solids? Roberto answered there would be no paint and no hazardous materials on site, even on a temporary basis.
- Roberto DeVincentis – They do not intend to have any outdoor storage at all. There may be a flatbed overnight, but there will be no long term parking or storage. Employee parking would be limited to two or three cars during business hours. There will be no products used or stored that would require a spill response.
- Mr. Armstrong requested the Site Plan be updated with plans for outdoor storage, parking and whether there will be a dumpster on site. Additionally, Mr. Armstrong requested a copy of their Corporate Spill Prevention Plan and Spill Response Plan, which Roberto said they would provide.
- Mrs. Singer – Are office hours Monday through Friday activity? Roberto responded it would be Monday through Friday with an occasional Saturday.
- Mr. Standard – Will a County Permit be needed for a full drainage system and should the Planning Board request that a copy of that be provided to them? Mr. Armstrong responded a permit will be required from the County which will indicate what will be allowed by the County.
- Mrs. Singer – In regard to traffic it was mentioned a flatbed would come through on occasion. There is a portion on the County's request which asked for equipment to be identified. Roberto said the concern is more with the materials. Material Safety Data Sheets (MSDSs) would be provided to allay any concerns.
- Mr. Pipher – Since Dot Tool never had many trucks there is no signage on the upper side of Nowlan Road specifying "truck entrance ahead". Mr. Pipher

suggested a sign be installed on the upper side of the tracks. Mr. Armstrong said that is something the Town can petition the County for.

- **SEQRA Review and Type Determination** – Mr. Armstrong addressed the SEQRA requirements, read through the Applicant completed Part 1 line by line. The Planning Board addressed Part 2, determining no or small impact. **Mr. Aurelio made a motion to list this as a Type II Action, with the entire project listed as either no impact or no impact of significance**, seconded by Mr. Standard. **Motion carried.**

ROLL CALL VOTE:

PB Member Mr. Armstrong aye

PB Member Mr. Aurelio aye

PB Member Mr. Pipher aye

PB Member Mr. Randall absent

PB Member Mrs. Singer aye

PB Member Mr. Standard aye

PB Chairman Mr. Eldred aye

- **Aquifer Protection Permit and Public Hearing** – Mr. Eldred read the following Notice at 7:40 PM:

PLEASE TAKE NOTICE that the Town of Fenton Planning Board will hold a Public Hearing to review and take action on the new development permit application made pursuant to the Aquifer Protection Law, Chapter 57 of the Town of Fenton Code, at 131 Nowlan Road, Binghamton (Town of Fenton), Tax Map ID No.: 129.06-1-40; submitted by R. DeVincentis Construction, Inc., on Tuesday, April 24, 2018 at 7:00 p.m., at the Town Hall located at 44 Park Street, Port Crane, New York.

Dated: April 20, 2018

TOWN OF FENTON
PLANNING BOARD
By John Eldred, Chairman

The following persons spoke in favor: None

The following persons spoke in opposition: None

Questions posed to the Planning Board and Applicant:

- Resident Bill Bowie – Will there be heavy equipment stored there at all and will there be washing of anything on the grounds? Roberto DeVincentis answered there will be no washing of equipment on the grounds. The only storage could possibly be overnight, but there will be no long time storage of equipment and no outside storage of materials.

Comments made by Resident(s) relevant to the Public Hearing: None

Questions of the Planning Board Member(s) to R. DeVincentis Construction, Inc.: None

All persons desiring to be heard, having been heard, Mr. Eldred closed the Public comment period and continued on with the meeting at 7:45 pm.

Mr. Armstrong made a motion to approve the Aquifer Development Permit for R. DeVincentis Construction, Inc., seconded by Mr. Aurelio. **Motion carried.**

ROLL CALL VOTE:

PB Member Mr. Armstrong aye
PB Member Mr. Aurelio aye
PB Member Mr. Pipher aye
PB Member Mr. Randall absent
PB Member Mrs. Singer aye
PB Member Mr. Standard aye
PB Chairman Mr. Eldred aye

Prior to the motion, Mr. Armstrong explained there are three items which cause the Board to require the Aquifer Development Permit. The size of the project is the reason for the Aquifer Development Permit being required due to the Town project threshold being \$50,000 and the potential of this project exceeding that. The expectation is not to exceed that number, but the possibility exists.

- **Site Plan Review** – Mr. Armstrong gave an overview of the Site Plan, which included interior renovations, addition and regrading of the parking spaces, a retaining wall to allow for the grading of the parking on the railroad side of the property with some drainage on the uphill side of the retaining wall, use of the existing utility entrances, handling the drainage ditch on Nowlan Road with the addition of drop inlets and underground storm pipe (which will require a permit from the County to move forward). An approved Site Plan would be contingent upon the inclusion of the following statements:

- there will be no hazardous materials on the site
- any storage outside the building will be temporary
- a copy of the Corporate Spill Prevention Plan and Spill Response Plan will be provided to the Planning Board
- a copy of the DPW Work Plan and Permit to be provided to the Planning Board
- the location of the dumpster on site (if applicable)
- there will be no outside cleaning or washing of equipment or materials
- there will be an occasional overnight vehicle pertaining to materials going in and out with a definition of what those materials might be
- there will be no permanent outside storage

The Town will provide correspondence to the DPW which will include:

- consideration of a speed reduction on Nowlan Road in that area
- request for the County to provide a sign indicating a truck entrance and exit.

Mr. Pipher made a motion to approve the Site Plan with the above-mentioned contingencies, seconded by Mr. Aurelio. **Motion carried.**

ROLL CALL VOTE:

PB Member Mr. Armstrong aye
PB Member Mr. Aurelio aye
PB Member Mr. Pipher aye
PB Member Mr. Randall absent
PB Member Mrs. Singer aye
PB Member Mr. Standard aye
PB Chairman Mr. Eldred aye

Prior to the vote, Mrs. Singer asked for clarification on the contingency items for Site Plan approval. Mr. Armstrong stated R. DeVincentis Construction, Inc. will provide the additional items in their Site Plan if the Board approves the Site Plan this evening. The contingent items will need to be added to their Site Plan prior to going to the Building Inspector for their Building Permit.

Brian Laing – 155 West Service Road – Change of Use

- **Introduction of Project** – Mr. Armstrong said the owner is intending to rent out a portion of the building to a Contractor. Brian Laing, Managing Partner of Laing, LLC, said the property was the former Dick Laing Diesel Service. It has been vacant for approximately ten years with the exception of some personal property being stored on the premises. The other section is being rented to BH Contracting LLC (Bob Harlost).
- **239 Review** – Mr. Armstrong stated the 239 Review material was issued to Broome County, which included the 239 Review Submission Form, the Applicant's application for Site Plan Review and a Site Plan. There are two portions of the building; one that runs parallel to the West Service Road and the other portion that is off at an angle. The portion at the angle is the portion being rented to BH Contracting LLC, which is a two story section. The portion not parallel to the West Service Road is being used for storage on a temporary basis (windows, ladders, doors, etc. used for general contracting) and there is an office with a Receptionist who is on the premises Monday through Friday, 8 am to 5 pm. There is also a Salesman that is in and out during the day as well as individuals handling the storage. Mr. Armstrong then went through the summary provided by Broome County: The County acknowledged receiving the request. As part of that review, the Planning Department has reviewed the above-cited case and has not identified any significant countywide or inter-community impacts associated with the proposed project; however, the following comments were provided:
 - The project site is located partially within the FEMA Special Flood Hazard Area and partially within the preliminary FEMA Special Flood Hazard Area. The Planning Board should exercise caution in approaching a project located within the Special Flood Hazard Area. This applicant should be informed of the risks of placing the project within the Special Flood Hazard Area.
 - The Planning Board should ensure that the existing and proposed project complies with the Town of Fenton Aquifer Protection Ordinance.
 - The case file was routed to the following agencies for review:
 - ✓ Binghamton Metropolitan Transportation Study (BMTS)
 - ✓ Broome County Department of Public Works (DPW)
 - ✓ Broome County Health Department (BCHD)
 - BMTS, NYSDOT, and BCHD have no comments.

Questions and comments regarding the 239 Review:

- Mr. Armstrong – Do you intend to store fuels, lubricants or gas operated equipment?
- Brian Laing – There is no intention to store fuels, lubricants or gas operated equipment.
- Mr. Armstrong – An Aquifer Protection Permit is not required for the project since none of the following applies: the spending of \$50,000 in the facility to upgrade or change it; no new construction, development or change of use that involves storage of toxic or hazardous materials exceeding 55 gallons or 500 pounds; or no new

construction, development or change of use that involves storage of toxic or hazardous materials exceeding 55 gallons or 500 pounds in a single month.

- **SEQRA Review and Type Determination** – Mr. Armstrong noted the SEQRA Review, considering it a Type II Action as there are no amendments to the property outside the structure with minimal interior changes. **Mr. Standard made a motion to list this as a Type II Action, with the entire project listed as either no impact or no impact of significance,** seconded by Mr. Aurelio.

Motion carried.

ROLL CALL VOTE:

PB Member Mr. Armstrong aye
PB Member Mr. Aurelio aye
PB Member Mr. Pipher aye
PB Member Mr. Randall absent
PB Member Mrs. Singer aye
PB Member Mr. Standard aye
PB Chairman Mr. Eldred aye

- **Site Plan Review** – Mr. Armstrong noted there were no changes to the footprint of the structure and existing storage of items belonging to the Laing Family will remain. **Mr. Aurelio made a motion to approve the Site Plan,** seconded by Mr.

Armstrong. **Motion carried.**

ROLL CALL VOTE:

PB Member Mr. Armstrong aye
PB Member Mr. Aurelio aye
PB Member Mr. Pipher aye
PB Member Mr. Randall absent
PB Member Mrs. Singer aye
PB Member Mr. Standard aye
PB Chairman Mr. Eldred aye

**Hillcrest Ventures – 136 East Service Road (formerly Nelson Ellis Furniture & Rugs)
– Change of Ownership and Use**

- **Introduction of Project** – Mr. Armstrong said the new owners are looking at considering portions of the building for multiple shops and operations as opposed to the single furniture store that was once there. Phil's Gift Shop would remain in its current footprint. Hillcrest Ventures Partner Mario Mughetti stated they are looking to partition off some interior walls to allow various uses to include offices, retail and uses that are permitted under General Commercial. Tenants currently considering the space include a replacement window company (including warehouse space), professional engineering, consignment area and electronics storage (hard goods). Mr. Armstrong further noted that in dealing with the Town Attorney and the Town Board regarding the current regulations for Change of Use, the Planning Board is looking to recognize and approve all current tenants under this one Change of Use to incorporate the specific areas noted on the Site Plan. Additionally, the Planning Board is looking for an interpretation from the Town Attorney and the Town Board on how future tenants will be handled in regard to Change of Use and how the Building Inspector would be allowed to address signage. Current signage requirements allow for 325 square feet of signage for a commercial property or one

square foot per foot of frontage. Atty. Fernandez said she and Atty. Millus have determined any new tenants are subject to Site Plan approval.

- **239 Review** – Mr. Armstrong stated the 239 Review material was issued to Broome County, which included the 239 Review Submission Form, the Applicant's application for Site Plan Review and a Site Plan. An Environmental Short Form was requested and completed by the Applicant, but there will be no change in the footprint of the building in regard to the exterior or parking spaces; there will be no changes that are going to produce activity that will generate noise, dust and changes to the environment.

Mr. Armstrong then went through the summary provided by Broome County: The County acknowledged receiving the request. As part of that review, the Planning Department has reviewed the above-cited case and has not identified any significant countywide or inter-community impacts associated with the proposed project; however, the following comments were provided:

- The project site is located slightly within the Existing FEMA Special Flood Hazard Area and partially within the Preliminary FEMA Special Flood Hazard Area. The Town should exercise caution in approving a project located within the Special Flood Hazard Area. The applicant should be informed of the risks of placing the project within the Special Flood Hazard Area.
- The Town Planning Board should ensure that the project complies with the Town of Fenton Aquifer Protection Ordinance and all applicable laws for the storage, handling, and disposal of hazardous materials.
- The project application and site plan should describe the proposed storage use, including the proposed storage materials, storage locations, storage containment, and the processing, manufacturing, handling, and disposal of any hazardous materials for the proposed electronics tenant and other tenants.
- The project application and site plan should describe the retail use that could occur onsite.
- The SEQR Short EAF description should include the storage, retail, and office uses.
- The site plan should include the following:
 - ✓ directional signage at the entrances and exits and to the loading dock area
 - ✓ landscaping and trees at the parking lot entrances and exits, along the road frontage, around the grounds, and around any free-standing signage
 - ✓ lighting plan
 - ✓ storage locations
 - ✓ adequate references to the proposed and potential retail, storage, and office uses
- The case file was routed to the following agencies for review:
 - ✓ Binghamton Metropolitan Transportation Study (BMTS)
 - ✓ New York State Department of Transportation (NYSDOT)
 - ✓ Broome County Department of Public Works (DPW)
 - ✓ Broome County Health Department (BCHD)
- NYSDOT, DPW and BCHD had no comments.

- Comments from the BMTS: BMTS has no issues with vehicular site access or traffic impacts. The Town should consider requiring that the site plan be amended to include complete streets elements including additional pedestrian connections (i.e. painting crosswalks between the parking area and the building) and onsite bicycle parking.

Questions and comments regarding the 239 Review:

- Mrs. Singer – Have the Business Partners that have committed to going in already disclosed everything they are going to be doing there?
- Mario Mughetti – Yes, they have disclosed all activities.
- **Site Plan Review – Mr. Standard made a motion to approve the Site Plan, including the four units that have already committed (Window Vendor, Engineering Electronics Storage, Consignment Shop and Yoga Studio),** seconded by Mr. Pipher. **Motion carried.**

ROLL CALL VOTE:

PB Member Mr. Armstrong aye
PB Member Mr. Aurelio aye
PB Member Mr. Pipher aye
PB Member Mr. Randall absent
PB Member Mrs. Singer aye
PB Member Mr. Standard aye
PB Chairman Mr. Eldred aye

Prior to the vote, Mrs. Singer asked whether the current Tenants would have any obligation to providing anything additional to the Planning Board. Mr. Armstrong said their obligation will be to the Building Inspector for any changes to the structure as well as signage. Atty. Fernandez stated Site Plan approval can be put on hold pending further information on the current Tenants. Mrs. Singer commented that although she appreciates the overview of what the businesses are coming in, she would have liked to have heard from the businesses coming in precisely what they are doing. Mario said the businesses are Spirit Song Yoga (approximately 900 square feet), Jennekens Junction (approximately 5,000 square feet) and RPA Electronics (approximately 1,800 square feet). Atty. Fernandez asked whether there were existing leases for these Tenants. Mario said there were tentative leases. Atty. Fernandez asked Mario to provide a written submission to Mr. Armstrong as to who the Tenants are.

Carlton Fisher – 704 Hunt Hill Road – Construction of House and Garage/Less than one acre

- **Introduction of Project** – Mr. Armstrong stated the parcel is less than one acre and parcels that are less than one acre are required to come before the Planning Board for Site Plan Review. Jackson Fisher, Fenton Resident of Winn Hill Road, represented his Father in his absence. The project is a 1,600 square foot home with a garage on a .9 acre lot.
- **239 Review** – Mr. Armstrong stated a 239 Review is required for any parcel within 500 feet of an Agricultural District so it did go to Broome County for review. The

only comment that came back was from the Broome County Health Department (BCHD).

- Comments from the BCHD: A Septic System Construction Permit must be obtained from the Health Department if modifications are planned to the existing system or if a new system is to be installed. If the Applicant is considering connecting to an existing system, extreme care should be taken to avoid driving over system elements with heavy equipment. (Mr. Armstrong provided BCHD contact Creig Hebdon at 778-2869.)
- **Site Plan Review – Mr. Armstrong made a motion to approve the Site Plan,** seconded by Mr. Aurelio. **Motion carried.**

ROLL CALL VOTE:

PB Member Mr. Armstrong aye
PB Member Mr. Aurelio aye
PB Member Mr. Pipher aye
PB Member Mr. Randall absent
PB Member Mrs. Singer aye
PB Member Mr. Standard aye
PB Chairman Mr. Eldred aye

OLD BUSINESS

Binghamton Precast – 99 West Service Road – Update

- **Aquifer Development Hearing** – There was a Public Hearing last month regarding the Aquifer Protection Permit. The Hearing was held over due to discussion around recognizing the significance of the project and the time it will take to work through it. There may be a Special Meeting scheduled in the near future.
- **SEQRA Letters** – The letters have gone out to the involved Agencies regarding the intent for the Planning Board to be Lead Agency.
- **Site Plan Review** – The Site Plan Review will be dependent upon the SEQRA Review and the Aquifer Development Permit.

NEXT PLANNING BOARD MEETING

The next Planning Board Meeting is scheduled for Tuesday, May 29th, 2018, at 7:00 pm.

ADJOURNMENT

At 8:27 pm, **Mr. Aurelio made a motion to adjourn the meeting. Motion carried.**

Sheryl L. Fay, Deputy Town Clerk