

The Town of Fenton Planning Board held a meeting (via Zoom) on Tuesday, August 25th, 2020, at 7:00 pm, at the Fenton Town Hall, 44 Park Street, Port Crane, New York.

PRESENT: Planning Board Members Timothy Brown, Chairman (video conference)
Richard Armstrong, Deputy Chairman (present)
Jason Aurelio, Board Member (present)
John Eldred, Board Member (present)
Michael Pipher, Board Member (present)
Patricia Podrazil, Board Member (video conference)
Legal Counsel Albert Millus, Jr., Hinman, Howard & Kattell (video conference) *joined at approximately 7:10 pm
Town Clerk Melodie Bowersox (present)
Engineer John Mastronardi, Griffiths Engineering (video conference)

ABSENT: Planning Board Member Maureen Singer, Board Member

OTHERS PRESENT: Six members of the General Public which included Building Inspector Matt Banks (present); Building Inspector Clerk Cheryl Mammano (present); one member of the General Public/Applicant (present); three members of the General Public/Applicants via video conference

CALL MEETING TO ORDER

Mr. Armstrong led in the Pledge of Allegiance.

MINUTES TO APPROVE

The Planning Board Members were emailed the minutes from the Planning Board Meeting held on July 28th, 2020. With no corrections/additions to be made to the minutes from the July 28th, 2020 Planning Board Meeting, **Mr. Aurelio made a motion to approve the minutes**, seconded by Mr. Pipher. **Motion carried.**

VOTE: Ayes 6 Armstrong, Aurelio, Brown, Eldred, Pipher, Podrazil
Absent 1 Singer
Nays 0

OLD BUSINESS

Eireannach Holdings LLC – 273 West Service Road – Addition/Renovation to Existing Building – Aquifer Protection Permit Public Hearing – Mr. Armstrong opened the Public Hearing at 7:04 pm. He proceeded to read the Public Hearing Notice:

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Town of Fenton Planning Board will hold a Public Hearing to review and consider the new development permit application made pursuant to the Aquifer Protection Law, Chapter 57, Section 57-8 of the Town of Fenton Town Code, at 273 West Service Road, Binghamton (Town of Fenton), Tax Map ID No.: 112.13-1-3; submitted by Eireannach Holdings LLC, on Tuesday, August 25, 2020 at 7:00 p.m., or as soon thereafter as the matter may be heard, at the Town Hall located at 44 Park Street, Port Crane, New York. The Public Hearing will also be available for virtual attendance via Zoom. Persons interested in

observing this meeting can contact the Town Clerk, Melodie Bowersox, to obtain instructions. Ms. Bowersox can be reached at (607) 648-4800 Ext. 0 or via e-mail at tfenton-clerk@stny.rr.com

Dated: August 18, 2020
PLANNING BOARD

TOWN OF FENTON
By Rick Armstrong, Deputy Chairman

Mr. Armstrong explained that under the Town Code, there are three criteria for issuing an Aquifer Protection Permit:

- 1) Any new construction, development or change of use, other than residential, farming, gardening, forestry, harvesting or grazing, that exceeds \$50,000.00 in cost.
- 2) Any new construction, development or change of use, that involves the storage of toxic or hazardous materials exceeding 55 gallons or 500 pounds or the use of toxic or hazardous materials exceeding 55 gallons or 500 pounds in a single month.
- 3) Any new project that requires a permit from the New York State Department of Environmental Conservation (NYS DEC).

In the case of Eireannach Holdings LLC the project exceeds \$50,000.00 in cost.

Comments of the Applicant: Jay O'Brien said the project consists of taking the existing structure, the office portion (not the warehouse), and adding another story on top of it. There will be a conference room added and additional office space because BRE is growing.

The following persons spoke in favor: Mr. Aurelio, Planning Board Member, stated that he is in favor of the project.

The following persons spoke in opposition: None

There were no further public comments. Mr. Armstrong closed the Public Hearing at 7:08 pm.

The Planning Board continued with the review of the project:

- **SEQRA Part 1** – Part 1 of the Short Environmental Assessment Form (EAF) was received from the Applicants prior to the meeting for review.
- **SEQRA Part 2** – Mr. Armstrong addressed the completion of Part 2 of the Short EAF with the Planning Board Members. All Planning Board Members concurred that the 11 questions were to be answered: 'No, or small impact may occur.' (Atty. Millus and Applicant Jeff O'Brien joined the meeting via Video Conference at 7:10 pm.) Following the review of SEQRA Part 2, **Mr. Aurelio made a motion for the Planning Board to assume the role of Lead Agency for an Uncoordinated Review of an Unlisted Action related to the proposed Addition/Renovation to the Existing Building**, seconded by Mr. Eldred. **Motion carried.**

ROLL CALL VOTE:

PB Member Mr. Armstrong aye
PB Member Mr. Aurelio aye
PB Member Mr. Eldred aye
PB Member Mr. Pipher aye
PB Member Mrs. Podrazil aye
PB Member Mrs. Singer absent

PB Chairman Mr. Brown aye

- **SEQRA Part 3** – Part 3 of the Short EAF is the “Determination of Significance.” **Mrs. Podrazil made a motion to declare a Negative Declaration with the belief that this project will not have a significant adverse impact on the environment,** seconded by Mr. Brown. **Motion carried.**

ROLL CALL VOTE:

PB Member Mr. Armstrong aye

PB Member Mr. Aurelio aye

PB Member Mr. Eldred aye

PB Member Mr. Pipher aye

PB Member Mrs. Podrazil aye

PB Member Mrs. Singer absent

PB Chairman Mr. Brown aye

- **Floodplain Development Permit** – The Application for a Floodplain Development Permit was provided by the Applicants. Building Inspector Matt Banks spoke to NYS DEC to consider whether an application was essential on this project. Provided that no activity impact or contact the Special Flood Hazard Area, then it would not be necessary. Applicant Jim O’Brien stated that the Special Flood Hazard Area would be avoided.
- **239 Review** – The 239 Review was received back from the County on July 15th, 2020.
 - One of the County’s comments was, “The site plan should show the proposed lot merger and change in proposed setback.” Mr. Armstrong said that the original application showed the stair set coming out of the west side of the building close to the property line. To resolve this issue the Applicants could eliminate the stair set, seek a variance from the Town’s Zoning Board of Appeals (ZBA), or merge it with the adjoining property that they own. Applicant Jay O’Brien said the best way to resolve the issue is to merge it with their adjoining property and that is their plan.
 - The County also referenced the location of the site being partially within the Special Flood Hazard Area and avoiding construction within that particular area.
 - The Broome County Health Department commented that “the expanded building may need to have an upgraded septic system.” Mr. Armstrong asked if there would be an increase in personnel associated with the addition of a second floor. Jim O’Brien said it would be very minimal. During the summer months, the employees are mainly in the field working. They are adding three offices and moving people from downstairs to upstairs. Mr. Armstrong concluded that an upgraded septic system should not be needed.
 - Conservation Advisory Committee (CAC) Chairman Mike Grasso commented on the safety and protection of the Town’s Well Zones. He suggested that during construction or if staff is added to the new structure, the parking area should be paved with Geotech underneath it. Also, precautions should be taken during construction to avoid any issues with spill or contamination. Jim O’Brien said they have an onsite safety employee 100% of the time who will be making visits to the site regularly and will document those visits. Any concerns will be directed to NYS DEC immediately. Mr. Armstrong requested that contractor(s) perform assessments of the site to address potential and/or loss of fluids at the beginning and end of each shift. Jim O’Brien said that any contractor working for them will have to sign on to their Site Safety Plan.
- **Site Plan – Mr. Eldred made a motion to approve the project with two conditions: verification from NYSEG that the highlines will not interfere with**

the project and merging of the two properties, seconded by Mr. Aurelio. **Motion carried.**

ROLL CALL VOTE:

PB Member Mr. Armstrong aye
PB Member Mr. Aurelio aye
PB Member Mr. Eldred aye
PB Member Mr. Pipher aye
PB Member Mrs. Podrazil aye
PB Member Mrs. Singer absent
PB Chairman Mr. Brown aye

- **Permits** – The Applicants will need to work with Matt Banks to obtain their Permits.

NEW BUSINESS

A & E Auto Sales and Service – 423 West Service Road – Applicant Abbas Mizrap shared with the Planning Board that he had an auto business in Johnson City, NY, but he wished to move to a nicer neighborhood. He has leased the building at 423 West Service Road to service and sell cars.

- **Questions/Comments from the Planning Board Members:**
 - Mr. Armstrong – Do you plan to service other individual's vehicles? Yes. Will you be primarily doing mechanical repairs? Yes. Any painting of vehicles? No.
 - Mr. Armstrong – Abbas has indicated that there will be no vehicle washing or oil changes on site.
- **SEQRA Part 1** – Part 1 of the Short Environmental Assessment Form (EAF) was received from the Applicant prior to the meeting for review. **Mr. Aurelio made a motion for the Planning Board to assume the role of Lead Agency for an Unlisted Activity related to the proposed Auto Sales and Service project**, seconded by Mr. Eldred. **Motion carried.**

ROLL CALL VOTE:

PB Member Mr. Armstrong aye
PB Member Mr. Aurelio aye
PB Member Mr. Eldred aye
PB Member Mr. Pipher aye
PB Member Mrs. Podrazil aye
PB Member Mrs. Singer absent
PB Chairman Mr. Brown aye

- **SEQRA Part 2** – Mr. Armstrong addressed the completion of Part 2 of the Short EAF with the Planning Board Members. All Planning Board Members concurred that the 11 questions were to be answered: 'No, or small impact may occur.'
- **SEQRA Part 3** – Part 3 of the Short EAF is the "Determination of Significance." **Mr. Eldred made a motion to declare a Negative Declaration with the belief that this project will not have a significant adverse impact on the environment**, seconded by Mr. Pipher. **Motion carried.**

ROLL CALL VOTE:

PB Member Mr. Armstrong aye
PB Member Mr. Aurelio aye
PB Member Mr. Eldred aye
PB Member Mr. Pipher aye
PB Member Mrs. Podrazil aye

PB Member Mrs. Singer absent

PB Chairman Mr. Brown aye

- **239 Review** – The 239 Review was sent to the County and there were two comments:
 - 1. The Town of Fenton should ensure that the project follows all applicable regulations for the storage, handling, and disposal of hazardous wastes. The project should include no outdoor unenclosed storage of tires and no vehicles or storage within the setbacks.
 - 2. The site plan should show the following if applicable: setbacks, landscaping, dumpster enclosure, waste oil containment unit, painting facilities and ventilation, and signage. *Mr. Armstrong said that the dumpster enclosure was identified. Waste oil containment will be on the interior of the structure. There will be no painting, as indicated by the Applicant. Signage will be handled by the Building Inspector.*
 - The Broome County Health Department (BCHD) made a comment that “the amounts of petroleum and other automotive fluids planned to be stored on site do not appear overly large.” *Mr. Armstrong suggested that the Applicant provide containment for both the materials (oils, lubricants, fuels, antifreeze, washer fluid, etc.) that are onsite and any waste as it is being generated.*
- **Further Questions/Comments from the Planning Board Members:**
 - Mrs. Podrazil – Do you plan to renovate any portion of the structure? No. Mr. Armstrong said that he and Matt Banks have noted that there may be issues the Owner needs to address associated with the roof.
 - Mr. Aurelio – Is this a second business or is the original business being moved to this location? Abbas is moving the original business to this location.
 - Mrs. Podrazil – Mrs. Podrazil asked for clarification on #15 of the Short EAF. Mr. Armstrong said that he reviewed the NY Environmental Resource Mapper, and nothing was indicated in that specific area as far as any habitats or endangered species.
 - Mr. Pipher – Mr. Pipher suggested that a stipulation be placed on the Owner that the roof be taken care of and/or the tarp be removed within a certain timeframe. Mr. Armstrong asked Matt Banks if a timeframe could be imposed on the Owner to remedy the situation. Matt said he will contact the Owner in accordance with the Town’s Property Maintenance Law and impose a 30 days obligation to service the building. (The Planning Board is not imposing a restriction on the Site Plan because of the roof issue; the Applicant can occupy the building independent of the property maintenance issues that will be addressed by the Town’s Building Inspector.)
 - Mr. Aurelio – Did you sign a lease yet? Yes, for a year. About six months ago when he was there, they were doing repairs of some kind and it appeared the roof was leaking. He asked the Owner about it. Abbas wants to make sure it is safe and there are no leaks.
 - Mr. Aurelio – Are we the governing body that can impose Property Maintenance restrictions with a condition of repairing a roof? Mr. Armstrong said it is not a Planning Board issue but a Property Maintenance issue to be handled by the Building Inspector. Atty. Millus said the Planning Board has a broad power to issue conditions with a Site Plan approval. In other words, the Planning Board could establish a condition as part of the Site Plan even though the responsibility would fall to someone other than the Applicant.

- **Site Plan** – The application shows where the customers will park, the direction of customers entering and exiting the property, the location of the dumpster, and the location of where a sign will be placed. The business hours will be Monday – Friday, 9 am – 5 pm and Saturday, 9 am – Noon. **Mr. Eldred made a motion to approve the project with the stipulation that the Owner of the building at 423 West Service Road would repair the roof within 30 days, to be imposed by Building Inspector Matt Banks according to the Town’s Property Maintenance Ordinance,** seconded by Mr. Aurelio. **Motion carried.**

ROLL CALL VOTE:

PB Member Mr. Armstrong aye
PB Member Mr. Aurelio aye
PB Member Mr. Eldred aye
PB Member Mr. Pipher aye
PB Member Mrs. Podrazil aye
PB Member Mrs. Singer absent
PB Chairman Mr. Brown aye

NEXT PLANNING BOARD MEETING

The next Planning Board Meeting is scheduled for Tuesday, September 29th, 2020, at 7:00 pm.

ADJOURNMENT

At 7:51 pm, Mr. Aurelio made a motion to adjourn the meeting, seconded by Mr. Pipher. **Motion carried.**

Melodie A. Bowersox, Town Clerk