

The Town of Fenton Planning Board held a meeting on Tuesday, May 29th, 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
 Engineer John Mastronardi (Griffiths Engineering)
 Town Clerk Melodie Bowersox
 Legal Counsel Tina Fernandez (Hinman, Howard & Kattell)

ABSENT: Planning Board Members David Berger (Law Office of David Berger)
 Brian Randall, Board Member

OTHERS PRESENT: 16 members of the General Public which included Town Board Member Michael Husar

CALL MEETING TO ORDER

Mr. Eldred led in the Pledge of Allegiance.

MINUTES TO APPROVE

The Planning Board Members were either mailed or emailed the minutes from the Planning Board Meeting held on April 24th, 2018. The following correction was noted:

- **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 and Consignment Shop),** seconded by Mr. Pipher. **Motion carried.** The motion should have included Yoga Studio as the fourth unit.

With this correction to be made to the minutes, **Mr. Aurelio made a motion to approve the minutes,** seconded by Mr. Standard. **Motion carried.**

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

OLD BUSINESS

Binghamton Precast – 99 West Service Road

- **Lead Agency** – The last time the Planning Board met to discuss the Binghamton Precast project, it was determined that this was a Type I Action which requires a coordinated review. The coordination letters were sent out to Broome County Department of Planning and Economic Development and NYS DEC who both responded in support of the Town declaring itself as the Lead Agency. **Mr. Standard made a motion for the Planning Board to assume the role of Lead Agency for**

Binghamton Precast at 99 West Service Road, seconded by Mr. Pipher. **Motion carried.**

VOTE: Ayes 5 Aurelio, Eldred, Pipher, Singer, Standard
Abstain 1 Armstrong
Nays 0
Absent 1 Randall

- **SEQRA Part 1** – With the Planning Board Members having ample time to review Part 1 of the SEQRA prior to the meeting, John Mastronardi addressed the following items of Part 1:
 - B. Government Approvals
 - b. City, Town or Village Planning Board or Commission: If Yes, Identify Agency and Approval(s) Required – The applicant checked yes and identified 'Site Plan Approval'. John suggested adding 'Aquifer Development Permit'.
 - h. Federal agencies: If Yes, Identify Agency and Approval(s) Required – The box should be checked 'no'.
 - C3. Zoning
 - a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance? If Yes, what is the zoning classification(s) including any applicable overlay district? John noted that this should say 'Limited Industrial' not 'Industrial'.
 - D2. Project Operations
 - a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) The applicant checked 'no' to this question. There was a brief discussion as to whether or not the answer should be 'yes' but the conclusion was that the answer would remain 'no'.
 - John was confirming with the Applicant that there is no public sewer available for the site but there is an existing septic system. Jay Abbey replied that there is a dual leech field, one that was for the prior existing apartment and garage; they are using those. John also asked if the Broome County Health Department (BCHD) reviewed any of that information and Jay said no.
 - j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? The Applicant checked 'no'. John noted that BMT and NYS DOT reviewed this project under the 239 and they did not have any concerns about the traffic.
 - r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? The Applicant checked 'no'. There was a discussion between the Applicant and the Planning Board Members about this question/answer after John made a comment that he believed there would be some type of waste generated. Jay distributed photos of the waste concrete containment area for the Planning Board Members to view. Jay explained that washout that has a slurry-type portion to it is dumped in the front of the holding area where any of the liquids run off

into it; as it dries, it is pushed up into another pile where it sets and then is loaded into a dump truck and hauled away. The decision was made to change the answer to this question to 'yes'.

- E.1. Land uses on and surrounding the project site
 - a. Existing land uses. Check all uses that occur on, adjoining and near the project site. Industrial and Commercial were checked. John said that 'Other (specify)' should also be checked and 'Parks' should be listed.
 - h. Potential contamination history. Has there been a reported spill at the site, or have any remedial actions been conducted at or adjacent to the proposed site? The Applicant checked 'no' and this should be 'yes'. If Yes: Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply. This was also 'no' but should be checked 'yes', as three remedial actions were listed to have been completed within 2000' of the site. Also, Environmental Site Remediation database will be checked 'yes'.
 - E.3. Designated Public Resources On or Near Project Site
 - d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? John noted that the Town is designated as a C.E.A. because of the Aquifer Protection Area.
 - h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? The Applicant answered 'no' and the answer should be 'yes'. Port Dickinson, Otsiningo, and Hillcrest Parks are the Local Parks to be listed (with the approximate distances noted).
 - **SEQRA Part 2** – Prior to the Planning Board addressing Part 2 of the SEQRA, there were questions asked of the Planning Board Members to the Applicant.
 - Mr. Pipher – The fuel storage was reduced? Jay replied that yes, it was reduced to 500 gallons. This was approved by NYS DEC and it is above the floodplain. A vendor fills the tank, now more frequently than before due to the reduction. John asked if it was placed directly behind the building and Jay said yes it was.
 - John Mastronardi – John asked Jay to explain how the chemicals and/or hazardous liquids are stored on the inside. The larger containers, like mezzanine, are stored up high; the smaller containers, like motor oil, antifreeze, etc., are stored underneath. The whole area is set up with a containment to cover the largest container. There is a curb that goes around the containment area.
 - Mr. Pipher – Do you apply sealant to the curb? It is sprayed on, usually inside and outside. Are there any drains on the main manufacturing floor area? No.
- At this point, the Planning Board proceeded to address the completion of Part 2 of the SEQRA. The following questions were answered 'yes' with 'no, or small impact may occur':
- #3 Impacts on Surface Water
 - #6 Impacts on Air
 - #15 Impact on Noise, Odor, and Light
- All other questions were answered 'no'.
- **SEQRA Part 3** – Part 3 is the "Evaluation of the Magnitude and Importance of Project Impacts and Determination of Significance." Having completed the review and not identifying any large or significant impacts to the environment, **Mr. Pipher made a**

motion to declare a Negative Declaration with the belief that Binghamton Precast at 99 West Service Road will not have a significant adverse impact on the environment, subject to the corrections noted in Part 1 of the SEQRA Review, seconded by Mr. Aurelio. **Motion carried.**

VOTE: Ayes 4 Aurelio, Eldred, Pipher, Standard
Abstain 2 Armstrong, Singer
Nays 0
Absent 1 Randall

Item A will be checked on Part 3 ('This project will result in no significant adverse impacts on the environment, and therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.') and the form is to be signed by Mr. Eldred.

- **Aquifer Development Permit** – Having reviewed the Aquifer Development Permit, **Mr. Pipher made a motion to accept the Aquifer Development Permit for Binghamton Precast at 99 West Service Road, seconded by Mr. Standard. Motion carried.**

VOTE: Ayes 5 Aurelio, Eldred, Pipher, Singer, Standard
Abstain 1 Armstrong
Nays 0
Absent 1 Randall

- **239 Review** – The County received the 239 and sent a response back on January 29th, 2018. The Planning Board Members reviewed the County's response prior to the meeting and had no comments.
- **Amended Site Plan** – The most recent Site Plan received was dated March 8th, 2018.

Items that were noted:

- John noted that the concrete storage containment is located on the north section of the plan.
- In July of 2016 the Planning Board approved the site plan conditional on landscaping being added to the site; landscaping is not indicated on the amended Site Plan. Atty. Berger suggested that Jay submit a landscape plan to John to review that is subject to Planning Board approval based on John's recommendation(s).
- John asked Civil Engineer Mark Parkers of Keystone Associates, LLC to explain why he labeled an area on the amended Site Plan 'new Special Flood Hazard Area'. Mark put up a display board with the Site Plan and explained that when Jay was first building, he filled the site to raise the building up. Because of the fill he put in, there is a new flood hazard line indicated on the plan so the base flood elevation is at 852.5'. The building is three feet higher than the original building was. A FEMA boundary map would show the base flood elevation at the prior level unless Jay were to submit a LOMA (Letter of Map Amendment). If Jay wished to have flood insurance for the site, he would need to submit a LOMA.
- John said the County suggested that the Applicant should not store anything below the 852.5' threshold, particularly flood damage debris.
- There are two conservation areas shown on the amended Site Plan as part of the Storm Water Pollution Prevention Plan. Those areas are to remain green and cannot be disturbed. Those areas have been filed as a Deed Covenant with the Broome County Clerk.

Mr. Standard made a motion to approve the amended Site Plan with the contingency of receiving an approved landscape plan (submitted by Binghamton Precast) to Town Engineer John Mastronardi, seconded by Mr. Pipher. Motion carried.

VOTE: Ayes 5 Aurelio, Eldred, Pipher, Singer, Standard
Abstain 1 Armstrong
Nays 0
Absent 1 Randall

NEW BUSINESS

Robbie's Auto Repair – 423 West Service Road – Change of Ownership and Use

- **Introduction of Project** – Mr. Armstrong explained that Robbie's Auto Repair is within the Town's Aquifer Protection Zone and requires an Aquifer Development Permit. There are materials that tend to be either toxic or hazardous stored in the excess of 55 gallons. The materials are motor oils, lubricants, coolants, some waste oil products, and brake fluid. In the 239 it was asked if a gas station was being placed at the property; there is no gas station being placed here. There may be times when a fuel pump or fuel tank will have to be changed which will require emptying of the pump/tank and storing the fuel temporarily. Mr. Standard asked if the gas tanks from the previous gas station had been removed and the applicant answered yes. The Planning Board Members have received the Aquifer Development Permit, the 239 Review, and an attachment from the applicant describing his change of use. Mr. Armstrong said that the Town would like to see total containment in regard to the Town's Aquifer and its protection.
- **Aquifer Protection Permit and Public Hearing** – Mr. Eldred read the following Notice at 8:12 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 Town Code, at 423 W. Service Road, Binghamton (Town of Fenton), Tax Map ID No.: 112.10-1-39.1; submitted by Robert Atutis (Robbie's Auto Repair), on Tuesday, May 29, 2018 at 7:00 p.m., at the Town Hall located at 44 Park Street, Port Crane, New York.

Dated: May 22, 2018
PLANNING BOARD
By John Eldred, Chairman

TOWN OF FENTON

Mr. Eldred opened the Public Hearing at 8:13 pm.

The following persons spoke in favor: None

The following persons spoke in opposition: None

Questions posed to the Planning Board and Applicant:

Resident Meta Parks – How is this new application going to be different from what is already established there? Mr. Armstrong replied that what most recently was in place was a car dealership. The applicant will no longer be selling cars but servicing cars.

The State and the Town see those as different activities so the permit is for automobile repair on the property. Meta asked if there would be big rig, tractor trailer repairs. Mr. Atutis said there is not room for tractor trailer repairs. He will just be repairing cars and pickup trucks.

Questions of the Planning Board Member(s) to the Applicant:

Mr. Standard – So this is strictly going to be a repair facility now? Mr. Atutis replied that is the plan for now but he would like to speak to the Town Engineer about possibly selling plants out front during the Spring and Summer season on a portable cart.

All persons desiring to be heard, having been heard, Mr. Eldred continued on with the meeting after closing the Public Hearing at 8:15 pm.

Mr. Armstrong asked the Planning Board if there was any further discussion in association with the Aquifer Protection.

- Mr. Standard – Did the previous car dealerships do service work there? Mr. Atutis answered yes. Mr. Standard asked if they had the same rules of storage and containment as him. Mr. Atutis said no.
- Mr. Pipher – Are there floor drains in there? Mr. Atutis replied no. Mr. Pipher asked if everything was handled by containment and disposed of at this point. Mr. Atutis said they are only allowed to have 30 gallons of waste oil or antifreeze stored inside at any time in metal containers.
- Mr. Pipher – Exterior tires and old gas tanks should be stored? Mr. Atutis said that Broome County mentioned that they did not suggest storage of any tires outside. He would like to obtain a small storage shed to store transmissions, engines, radiators, etc. Mr. Atutis does not intend to store tires outside.
- Mr. Armstrong – Is the lift reservoir in the floor or surface mounted and above? It is a new lift that is surface mounted and above. The old hydraulic lift was taken out of the floor and was capped and sealed.
- Mrs. Singer – Are you going to have two drums, one of oil and one of antifreeze? Mr. Atutis said there will also be approximately 20 gallons of new oil and new products.
- Mr. Armstrong – So we are looking at full containment of your oils, lubricants, coolants, and waste products? Mr. Atutis added that they would all be inside of the garage and they are subject to NYS DOT (Department of Transportation) inspection at any time.

Mr. Pipher made a motion to approve the Aquifer Development Permit for Robbie's Auto Repair, 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

- **SEQRA Review and Type Determination** – Mr. Armstrong addressed the SEQRA Review. A short form was completed and the Planning Board Members also received

this form when the 239 Review was issued to the County. Mr. Armstrong reviewed the form and addressed the following items:

- 1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? The applicant indicated yes but the answer is no. The Town is not updating the Comprehensive Plan or Town Ordinances.
- 3. Total acreage? The applicant indicated one acre and Mr. Armstrong corrected this to .42 acres.
- 4. Check all land uses that occur on, adjoining and near the proposed action. Mr. Armstrong added other: Mobile Homes, Ag Res A, and Res B.
- 5. Does the proposed action meet or exceed the state energy code requirements? The applicant indicated yes and this is based on the time of construction.
- 12b. Is the proposed action located in an archeological sensitive area? Mr. Armstrong answered no.

At this point, the Planning Board addressed Part 2, determining that this project shall be listed as a Type II Action with the project listed as either no impact or no impact of significance and requiring no further action.

- **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, the short EAF (Environmental Assessment Form), and images of the property and proposed signage. Sean Murphy of the NYS DOT stated that the "Region 9 Site Plan Review Committee has no comments on this proposal at this time." Broome County Department of Planning and Economic Development provided comments in the 239 Review and the Applicant responded to those comments.
 - The project application should include the Aquifer Development Permit application. 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. See enclosed comments from the BCHD.
 - The Planning Board has addressed this.
 - The Aquifer Development Permit and site plan should include the specifications for the waste oil container, secondary containment, and storage location, and describe how the container will be accessed and handled and how the contents will be emptied and disposed. The Town Planning Board should ensure that the container is properly secured and removed from potential vehicular conflicts and require secondary containment, bollards, and a concrete pad. The waste oil container and all chemical and petroleum storage should be stored inside due to the aquifer. See enclosed comments from the BCHD.
 - The Planning Board has addressed this.
 - The project should include a spill prevention plan and spill response plan.
 - Mr. Armstrong will work with Mr. Atutis in developing a spill prevention plan and spill control plans.
 - Adequate screening and buffering should be provided for any collision vehicle storage area.
 - Mr. Atutis said they will not be doing any body work on vehicles.

- The application and site plan should include the purpose, contents, and dimensions of the proposed shed or storage facility.
 - Mr. Atutis mentioned the addition of a storage shed. If the Planning Board approves the change of use, it will not include the storage shed. Mr. Atutis would need to see Building Inspector Matt Banks for a permit for the storage shed.
- The application should indicate whether the project would include onsite washing and cleaning of vehicles, auto detailing, painting, and/or onsite storage of waste oil.
 - Mr. Atutis made reference to having the opportunity to clean vehicles at the car wash next door to his property.
- The application should describe the type of vehicles that would be repaired onsite.
 - This was previously discussed.
- The project should include landscaping along the West Service Road frontage.
 - This would be minimal due to the property being paved.
- The conditions of approval should stipulate removal of existing autos and campers, maximum number of vehicles waiting for repair and pick up allowed to be stored onsite at any given time, no outdoor storage of tires, no outdoor storage of chemicals or other hazardous materials, no outdoor storage of collision vehicles or junk vehicles, no storage or display within the setback areas, no loading or unloading of vehicles within the public right-of-way, and no on-site fueling of vehicles.
 - Only two vehicles remain on the property from the previous car dealership. The other items listed have been discussed.
- The site plan should include the following features: driveway entrance(s) and exit(s) and curb cuts, existing and proposed structures, service bays, shed or storage facility use and dimensions, dumpster enclosure, oil, waste oil, and coolant, and petroleum storage locations and containment specifications, oil separator locations and specifications, parking spaces for customers, employees, and repair vehicles, business and directional signage, delivery truck location, exterior lighting, fencing, landscaping, any washing and cleaning facilities, any painting facilities, appropriate ventilation, and required and proposed setbacks.
 - Several of these items have been addressed: there will be two service bays, a possible storage shed, a three to five yard dumpster, potential for 20 to 30 vehicles, signage in which a permit will be obtained through Matt Banks, and possible tow trucks on the premise; no oil separator will be necessary and there are no floor drains.

Questions and comments regarding the 239 Review:

- Mrs. Singer – You mentioned 30 cars is what you are anticipating. Is it a Monday – Friday operation? Mr. Atutis said it will probably be more like 20 cars and yes, it is a Monday – Friday operation.
- **Site Plan Review – Having received and reviewed the Site Plan, Mr. Pipher made a motion to approve the Site Plan for Robbie’s Auto Repairs, 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

Storage Building – 169 Ganoungtown Road

- **Introduction** – The Applicant was not present at the meeting. Mr. Armstrong has had discussions with the Applicant regarding the 48' x 60' storage building. Due to the size of the building and the height of the doors, the project is before the Planning Board for a Site Plan Review. The property is located on a County road which triggers a 239 Review.
- **239 Review/Site Plan Review** – The Broome County Department of Planning and Economic Development reviewed the case and did not identify any significant countywide or inter-community impacts associated with the proposed project. The Department of Public Works noted that "the applicant has indicated that he plans to use the existing driveway to access the site. If the applicant intends to make any changes to the size of the existing driveway, 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. Further, the driveway entrance should be designed in accordance with NYSDOT driveway standards and guidelines." There was previously a home on the property that was demolished. The land was leveled off and a slab remains on the property. There is also a well and sanitary system at the premise. The building is strictly for a farm and agriculture activity. The Applicant will store farm equipment; no repairs will be done in the building. **Mr. Standard made a motion to approve the Site Plan for the storage building at 169 Ganoungtown Road**, 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

Hillcrest Ventures – 136 East Service Road (formerly Nelson Ellis Furniture & Rugs)

- **Proposed Change of Use** – At last month's meeting, there was discussion concerning new tenants of Hillcrest Ventures and how they would be presented to the Planning Board. It was concluded that each time there is a change of use, a Site Plan Review is required based on NYS Municipal Law. A Personal Fitness Trainer is the new tenant that Hillcrest Ventures would like to add to their business. The Trainer would have one to five individuals at a time (one-on-one training); if classes are held, there would be up to ten individuals. Lucianno Piccirilli said that he emailed information to Mr. Armstrong's personal email but he did not leave a phone message on Mr. Armstrong's home phone as Mr. Armstrong requested him to. Mr. Armstrong will review the email and send the 239 Review to the County when he is in the Town Office on Thursday. Mario Mughetti

spoke with Frank Evangelisti who said that based on the last 239 Review, he should be able to turn it around quickly. Assuming there is a quick turnaround, Hillcrest Ventures should be on the Agenda for the June Planning Board Meeting. Resident Judy Cummings asked if the building was going to be leased out for different enterprises, multiple businesses. One of the applicants answered yes. Lucianno Piccirilli asked if the 239 could be waived for this particular tenant. Mr. Armstrong reiterated that the 239 Review is a State requirement and Atty. Fernandez stated that the Town does not have the right to waive it. Atty. Millus and Atty. Fernandez researched the NYS Municipal Law and also had discussions with Frank Evangelisti concerning the matter. Resident Meta Parks asked if it was going to take a month lead time every time they want to put a new tenant in before they can lease to that new tenant. Several answered Meta's question, indicating that yes, this is a possibility, depending on when the materials are submitted and received back from the County.

UPCOMING PLANNING BOARD TRAINING

There will be a special Planning Board Training for Planning Board Members at the Town Hall on Monday, June 18th, 2018 from 5 – 7 PM.

NEXT PLANNING BOARD MEETING

The next Planning Board Meeting is scheduled for Tuesday, June 26th, 2018, at 7:00 pm.

ADJOURNMENT

At 8:51 pm, **Mr. Eldred made a motion to adjourn the meeting. Motion carried.**

Melodie A. Bowersox, Town Clerk