

Town of Union Planning Board Minutes

Tuesday, December 12, 2017

A regular meeting of the Town of Union Planning Board was held Tuesday, December 12, 2017, at the Town of Union Office Building, 3111 East Main Street, Endwell, New York.

Members present: L. Miller, L. Cicciarelli, S. McLain, A. Elwood, T. Crowley,
S. Daglio

Members absent: S. Forster

Others present: Marina Lane, John Patrick, David Curry, Jim Taber, John Esposito, John George, Susan George, John Circensi, Christine Pucedo, Kurt Knox, Andrew DeNardis, James Scalcione, Vincent Scalcione, Jeffrey Yu, Wei Fu, Renata Brennan, Kate Brennan, Diane Erle, Marissa Erle

A. CALL TO ORDER

Chairman Miller opened the meeting of the Planning Board at 7:00 pm. Ms. Miller noted that they would revise the agenda to address item E, regarding the proposed cell tower at 1209 Taft Avenue, at the beginning of the meeting.

B. MEETING MINUTES

1. Acceptance of November 21, 2017 Meeting Minutes

Chairman Miller asked for a motion to accept the November 21, 2017, Meeting Minutes, as written.

Motion Made:	A. Elwood
Motion Seconded:	L. Cicciarelli
MOTION:	Acceptance of the November 21, 2017, Meeting Minutes, as written.
VOTE:	In Favor: L. Miller, L. Cicciarelli, S. McLain, A. Elwood, T. Crowley Opposed: None Abstained: S. Daglio Motion Carried

2. Acceptance of November 21, 2017 Public Hearing Transcript – Special Permit for a Two-Family Use

Chairman Miller asked for a motion to accept the November 21, 2017, Public Hearing Transcript for Two-Family Use at 712 Carl Street, as written.

Motion Made:	S. McLain
Motion Seconded:	L. Cicciarelli

MOTION: Acceptance of the November 21, 2017, Public Hearing Transcript for Two-Family Use at 712 Carl Street, as written.

VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, A. Elwood, T. Crowley
Opposed: None
Abstained: S. Daglio
Motion Carried

**C. Up State Tower / Blue Wireless, 1209 Taft Avenue
Vote on Extension of special Permit Decision**

Ms. Lane explained that the September 12 public hearing for the Up State / Blue Wireless telecommunications facility was held open through the October 10 Planning Board meeting to allow the public ample time to make comments. Town code states that the Planning Board may vote to approve, approve with conditions, or deny a Special Permit sixty-two days from the close of the public hearing. Since the Planning Board cannot vote at this time due to litigation, the Planning Board should extend the deadline. This action is simply procedural, and Ms. Lane recommended that the vote be extended by another sixty-two days.

Chairman Miller stated that, due to the litigation, the Planning Board has been advised not to discuss the project with members of the public. Ms. Miller noted that Ms. Lane had agreed to take any questions or comments via email if residents want to express concerns, and that Ms. Lane would then forward them to the Town Attorney.

Chairman Miller then called for a motion to extend the Special Permit vote for Up State Tower at 1209 Taft Avenue for sixty-two days.

Motion Made: T. Crowley
Motion Seconded: L. Cicciarelli
MOTION: Recommendation to extend the Special Permit decision for Up State Tower at 1209 Taft Avenue for sixty-two days.

VOTE **In Favor:** L. Miller, L. Cicciarelli, S. McLain, A. Elwood, T. Crowley, S. Daglio
Opposed: None
Abstained: None
Motion Carried

**D. Endwell Church of Christ, 3600 Country Club Road, Variance to Permit an Internally-Lit Sign, J. Patrick
Advisory Opinion to the Zoning Board**

John Patrick, President, submitted a sign permit application for an 8-foot high, internally-lit monument sign for the Endwell Church of Christ at 3600 Country Club Road. The property is located in a Commercial Office Zoning District and an internally-lit monument sign is not permitted.

Mr. Curry, a representative for the Endwell Church of Christ, explained that they propose placing the sign along the Hooper Road side of the property, across from the gas station, versus on the Country Club Road side of the property in order to not affect the residents on Country Club Road. Mr. Curry explained that the Church wants a lit sign to let people know that the building is a church, and to make the public aware of the Sharing Closet, which is a ministry they operate around the corner on Country Club Road. They plan to post the hours of the Sharing Closet and church services on the sign.

The internally-lit sign will be placed against the concrete apron of the steps in order to blend into the building and not be ostentatious. The internal LED lighting will not be very bright, but just enough to light up the letters. If they were to use external lighting, as is permitted, there is a good chance the lights would get misdirected or even vandalized.

Ms. Miller clarified that the copy (text) was not moveable like the text on the digital sign at the doctors' office across the street, and the letters are on the inside of the sign. Mr. Patrick confirmed this. Mr. Crowley commented on how dark the church is at night, and Mr. Patrick responded that the lack of visibility is a problem for them.

Ms. Lane asked about the height of the sign. Mr. Taber responded that the structure is eight feet tall, but the actual sign portion is six-feet by four-feet; it would be two feet from the ground to the bottom of the lighted portion of the sign. Ms. Miller asked if there would be landscaping around the sign and Mr. Patrick replied that the east end of the sign would line up with the edge of the existing shrubbery in front of the church. Ms. Lane noted that the sign structure meets code except for the internal illumination of the sign.

Ms. Lane then read her report. The proposed sign is in a double-faced, internally-illuminated aluminum sign cabinet. The enclosed white Lexan sign faces with printed vinyl letters would be illuminated by 12-volt, low consumption white LED pods. There are two separate cabinet faces on the proposed monument sign; the top 18" x 64" cabinet would house the church name, and the lower 48" x 64" cabinet will hold five lines of 6" changeable copy letters. The overall height of the sign would be 8-feet to the top of the sign. The size and setbacks of the sign conform to the zoning code.

Planning Department staff recommend that the Planning Board recommend approval of the variance for an internally illuminated monument sign to the ZBA.

As the Church has evening activities, a clearly illuminated sign could be beneficial to the community. Per the report, external lighting for a monument sign is permitted, but during the discussion it was proposed that the internal illumination may be safer. As this particular corridor is commercial with bright lighting at night already, and no homes would be affected, internal illumination would not have a negative impact on the neighborhood.

There was some discussion about limiting the hours that the sign could be lit. Mr. Daglio noted that since the gas station, the Endwell Family Physician sign and the Visions signs were illuminated all the time, limiting the hours of illumination for the church sign was not necessary.

Chairman Miller then called for a motion to recommend the ZBA approve the variance for an internally lit sign at 3600 Country Club Road.

Motion Made:	S. Daglio
Motion Seconded:	T. Crowley
MOTION:	Recommend the ZBA approve the variance for an internally lit sign at 3600 Country Club Road.
VOTE	In Favor: L. Miller, L. Ciciarelli, S. McLain, A. Elwood, T. Crowley, S. Daglio Opposed: None Abstained: None Motion Carried

**E. Esposito, 221 Ardmore Street, Use Variance for a Commercial Use in a Suburban Multi-Family Zoning District, J. Esposito
Advisory Opinion to the Zoning Board**

The property at 221 Ardmore Street is located in a Suburban Multi-Family (SMF) zoning district, and a commercial use is not permitted. John Esposito has applied for a use variance.

Mr. Esposito explained that he is a contractor, and he needed a garage to store his tools. He described the neighborhood which is behind Phil's Chicken House as a ghost town following FEMA buyouts. Mr. Esposito displayed photographs of the neighborhood and the garage showing that he had made a number of improvements to the garage and lot, which had been in poor shape following the 2011 flood. Photographs showed a dumpster located next to the garage, and lockable fencing. Tom Crowley mentioned that he had seen two vehicles parked at the garage, and Mr. Esposito responded that his employees do park

at the garage when they go to jobs via business vehicles. He stores pallets and gutters in the rear of the building, and said he's very willing to fence in any construction materials.

Mr. Esposito explained that he had purchased the property with the sole garage about a year and a half ago, and had not realized that his storage use would be considered commercial. He hopes to be able to continue to use the stand-alone residential garage as a storage facility for his construction business tools.

John Esposito demonstrated, using aerial photographs, that many of the lots in the neighborhood are vacant, and that there are three vacant lots around his property due to FEMA buyouts. He also showed that there are a number of commercial businesses immediately behind his property. He doesn't feel that he's doing any harm to the neighborhood; the property looks like a garage. Ms. Lane asked if Mr. Esposito had any plans for expanding the storage onto the adjacent property, 223 Ardmore Street, which he also owns. Mr. Esposito noted that he only uses that lot to plant a vegetable garden and had no plans for any expansion. Ms. Lane mentioned that Code Enforcement Officer Daria Golazeski recommends that the two lots be combined.

Mr. Crowley then asked if Mr. Esposito would be adverse to installing a fence around the rear portion of the property to shield the gutters that he sometimes stores on the property. Mr. Esposito responded that he had no problem with putting up another fence, particularly since that is what his business does, if the variance is approved.

Per Ms. Lane's report, the 16' x 30' garage was built in 1988 as an accessory use to a house on 219 Ardmore Street, which was purchased and demolished by the Town of Union as part of the FEMA buy-out program.

Per Town Law, no use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,

- (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (4) that the alleged hardship has not been self-created.

The Planning Department staff recommends that the Planning Board recommend to the ZBA denial of the use variance to use the garage for a commercial business in a Suburban Multi-Family zoning district. Ms. Lane stated that she recommends denial of the use variance because it is a self-created hardship; however, this is a recommendation and the Planning Board will make their own recommendation.

The Planning Board members discussed recommending approval of the garage in the Suburban Multi-Family zoning district for the following reasons: it was an unusual situation, the area was no longer viable for residential development, it would be difficult to sell the garage, and the garage use does not affect residents. Mr. Cicciarelli said that he realizes the proposal could be construed as setting an undesirable precedent, but that he feels this is an unusual situation.

Motion Made:	T. Crowley
Motion Seconded:	S. Daglio
MOTION:	Recommend the ZBA approve the use variance for commercial use in a SMF District at 221 Ardmore Street.
VOTE	In Favor: L. Miller, L. Cicciarelli, S. McLain, A. Elwood, T. Crowley, S. Daglio Opposed: None Abstained: None Motion Carried

F. Other Such Matters as May Properly Come Before the Board

Ms. Lane noted that there was an informative article about flood-proofing on Page 18 of the Talk of the Towns & Topics November/December issue. Ms. Elwood and Ms. Lane reported that the floodwall installation for Watson Boulevard had been postponed until December 13th because the truck with the equipment had been delayed by a snowstorm in Ohio. Ms. Elwood responded to questions that the equipment would be stored in a separate building on Watson Boulevard to be accessible to workers when needed.

Ms. Lane also advised the Planning Board members that there were winter webinars that fulfilled the training requirement that the members could enjoy in the comfort of their own homes, and that she had emailed a schedule of the webinars to Planning Board members.

Ms. Lane then noted that this would be Ms. Elwood's last Planning Board meeting. Ms. Lane thanked Ms. Elwood for her twenty-one years of service on the Planning Board. Before joining the Planning Board, Ms. Elwood had

attended Town Board Meeting two times a month for twenty years before she became a Planning Board member in order to add her voice for projects that affected the Town. The other Planning Board members and members of the audience also thanked Ms. Elwood for her service. Ada explained that she will be joining Mr. Nelson's Community Development Advisory Board in the future.

Ms. Lane then took a few moments to address question about how the Planning Board process works regarding the Up State cell tower project. Ms. Lane noted that the project has three basic procedural steps, not including the environmental review. First, the proposal requires area variances from the Zoning Board of Appeals; the project then requires a special permit from the Planning Board to have a cell tower; and the third step in the process is site plan review by the Planning Board.

Ms. Lane then explained that the Planning Board declared Lead Agency under SEQRA. Essentially that means that the Planning Board would be responsible for making the environmental determination. The Zoning Board of Appeals agreed that the Planning Board would be the Lead Agency for the environmental determination. Several people had attended the September 21st Planning Board meeting where the environmental determination was discussed and the public hearing was also opened to the public on that date. The Public Hearing was not closed at the September 12th meeting to allow citizens to make comments until the next Planning Board meeting on October 10th. In the meantime, at the Zoning Board meeting on September 18, the ZBA voted to deny the area variances. Town Code requires that the Planning Board vote on a Special Permit within sixty-two days of the close of the public hearing, which was October 10, 2017. Because of the pending lawsuit, the Planning Board prefers to not take formal action on the Special Permit at this time; therefore, the Planning Board is extending the time period for a vote on the Special Permit to have a cell tower.

Mr. George asked if Up State Tower had applied for an appeal of the ZBA ruling and Ms. Lane answered that they had submitted a lawsuit to the town. Mr. George then asked whether there would be another public hearing during the 62-day extension period and Ms. Lane replied that there would not be another public hearing about Up State Tower. Ms. Lane then noted that she could not answer any questions about the Zoning Board.

Chairman Miller suggested that if the audience had any further questions or comments, that they be addressed to the Town Attorney, Alan Pope. Questions could be directed to Mr. Pope on the Town of Union website.

Ms. Pucedo asked if the Planning Board could override the vote that the Zoning Board had made and Ms. Lane answered no. Ms. Lane explained that because the case is going to court, the Planning Board members could not talk about

the project, and they are just extending the timeframe for the Planning Board to vote on the Special Permit.

The members in the audience noted that they were still interested in keeping abreast of the court case and that they would address their inquiries to the Town Attorney. Mr. DeNardis asked how to make a Freedom of Information request and Ms. Lane explained that FOIL requests should be submitted to the Town Clerk. The members in the audience thanked Ms. Lane for taking the time to answer their procedural questions.

G. Adjournment

Chairman Miller asked for a motion to adjourn the meeting at 7:48 p.m.

Motion Made:	L Cicciarelli
Motion Seconded:	S. Daglio
MOTION:	Adjourning the meeting.
VOTE:	In Favor: S. McLain, L. Miller, L. Cicciarelli, A. Elwood, S. Daglio Opposed: None Abstained: None Motion Carried

Next Meeting Date

The next meeting of the Planning Board is tentatively scheduled for Tuesday, January 9, 2018 at 7:00 PM

Respectfully Submitted,
Carol Krawczyk