

Town of Union Planning Board Minutes  
Tuesday, November 12, 2019

A regular meeting of the Town of Union Planning Board was held Tuesday, November 12, 2019, at the Town of Union Office Building, 3111 East Main Street, Endwell, New York.

Members present: L. Miller, S. McLain, T. Crowley, S. Forster, M. Jaros  
D. Kudgus

Members absent: L. Cicciarelli, Alternate S. Yalamanchili

Others present: Marina Lane, Rick Materese, Alan Pope, Bob Potochniak, and  
T. Roosa

**A. CALL TO ORDER**

Chairman Miller opened the meeting of the Planning Board at 7:00 p.m.

**B. MEETING MINUTES**

**1. Acceptance of September 10, 2019 Meeting Minutes**

Chairman Miller asked for a motion to accept the September 10, 2019, Meeting Minutes as written.

Motion Made: T. Crowley

Motion Seconded: M. Jaros

MOTION: Acceptance of the meeting minutes of  
September 10, 2019, as written.

VOTE: **In Favor:** L. Miller, S. McLain, T. Crowley  
S. Forster, M. Jaros, D. Kudgus

**Opposed:** None

**Abstained:** None

Motion Carried

**2. Acceptance of September 10, 2019 Public Hearing Transcript –Special Permit for Floodplain Development at 42 Camden Street**

Chairman Miller asked for a motion to accept the September 10, 2019, Public Hearing Transcript for the Special Permit for Development in the Floodplain as written.

Motion Made: S. Forster

Motion Seconded: D. Kudgus

MOTION: Acceptance of the September 10, 2019, Public  
Hearing Transcript for the Special Permit for  
Floodplain Development as written.

VOTE: **In Favor:** L. Miller, S. McLain, T. Crowley,  
M. Jaros, D. Kudgus

**Opposed:** None

**Abstained:** None  
Motion Carried

**3. Acceptance of September 10, 2019 Public Hearing Transcript – Special Permit for Floodplain Development at 1553 Union Center-Maine Highway**

Chairman Miller asked for a motion to accept the September 10, 2019, Public Hearing Transcript for the Special Permit for Development in the Floodplain as written.

Motion Made: S. McLain  
Motion Seconded: T. Crowley  
MOTION: Acceptance of the September 10, 2019, Public Hearing Transcript for the Special Permit for Floodplain Development as written.  
VOTE: **In Favor:** L. Miller, S. McLain, T. Crowley  
S. Forster, M. Jaros, D. Kudgus  
**Opposed:** None  
**Abstained:** None  
Motion Carried

**4. Acceptance of October 8, 2019 Meeting Minutes**

Chairman Miller asked for a motion to accept the October 8, 2019, Meeting Minutes as written.

Motion Made: T. Crowley  
Motion Seconded: S. McLain  
MOTION: Acceptance of the meeting minutes of October 8, 2019, as written.  
VOTE: **In Favor:** L. Miller, S. McLain, T. Crowley,  
S. Forster, M. Jaros, D. Kudgus  
**Opposed:** None  
**Abstained:** None  
Motion Carried

**C. Request for Revision of Special Permit, 1500 Co. Airport Road, B. Kashou**

**1. Declare Lead Agency**

Chairman Miller asked for a motion to declare the Planning Board Lead Agency.

Motion Made: S. Forster  
Motion Seconded: S. McLain  
MOTION: Declare the Planning Board Lead Agency

VOTE:                   **In Favor:** L. Miller, S. McLain, T. Crowley,  
S. Forster, M. Jaros, D. Kudgus  
**Opposed:** None  
**Abstained:** None  
Motion Carried

**2. Declare Project an Unlisted Action**

Chairman Miller asked for a motion to declare the project an Unlisted Action under SEQRA.

Motion Made:       S. Forster  
Motion Seconded:   T. Crowley  
MOTION:            Declare the project an Unlisted Action.  
VOTE:               **In Favor:** L. Miller, S. McLain, T. Crowley  
S. Forster, M. Jaros, D. Kudgus  
**Opposed:** None  
**Abstained:** None  
Motion Carried

**3. Call for Public Hearing to be held on December 10, 2019, at 7:00 p.m.**

Chairman Miller asked for a motion to approve the Public Hearing to be held on December 10, 2019, at 7:00 p.m.

Motion Made:       S. McLain  
Motion Seconded:   S. Forster  
MOTION:            Approval of the Public Hearing to be held on  
December 10, 2019, at 7:00 p.m.  
VOTE:               **In Favor:** L. Miller, S. McLain, T. Crowley  
S. Forster, M. Jaros, D. Kudgus  
**Opposed:** None  
**Abstained:** None  
Motion Carried

Ms. Lane explained that Mr. Kashou received approval in 2005 for a special permit for recreational purposes for the Sports Complex with the stipulation that hours of operation would be limited to between 8 a.m. and 11 p.m. Last year, Mr. Kashou requested an amendment to extend those hours for three overnight league events per month. Following a public hearing, the revision was approved for six months. Mr. Kashou has requested another extension of the center's hours for the same league this year. The requested modification of a special permit requires a new public hearing. Ms. Miller added that the Planning Board requires Mr. Kashou come before the Planning Board every year for the Word of Life overnight event. The Planning Board will decide whether to extend the hours on the special permit again at the December meeting after the Public Hearing.

**D. Salt Storage Project, 412 Scarborough Drive, R. Lohmeyer**

Ray Lohmeyer applied to use 412 Scarborough Drive for salt storage associated with his snow removal business during the winter. Mr. Lohmeyer would also like to store the trucks on the property. The property is zoned Industrial and the proposal requires a Special Permit for Floodplain Development and a Special Permit for Outdoor Operations and Storage.

**1. Declare Lead Agency**

Chairman Miller asked for a motion to declare the Planning Board Lead Agency.

Motion Made: S. Forster  
Motion Seconded: M. Jaros  
MOTION: Declare the Planning Board Lead Agency  
VOTE: **In Favor:** L. Miller, S. McLain, T. Crowley,  
S. Forster, M. Jaros, D. Kudgus  
**Opposed:** None  
**Abstained:** None  
Motion Carried

**2. Declare Project an Unlisted Action**

Chairman Miller asked for a motion to declare the project an Unlisted Action under SEQRA.

Motion Made: T. Crowley  
Motion Seconded: D. Kudgus  
MOTION: Declare the project an Unlisted Action.  
VOTE: **In Favor:** L. Miller, S. McLain, T. Crowley  
S. Forster, M. Jaros, D. Kudgus  
**Opposed:** None  
**Abstained:** None  
Motion Carried

**3. Call for Public Hearing for a Special Permit for Floodplain Development, to be held on December 10, 2019, at 7:05 p.m.**

Chairman Miller asked for a motion to approve the Public Hearing for a Special Permit for Floodplain Development to be held on December 10, 2019, at 7:05 p.m.

Motion Made: S. Forster  
Motion Seconded: M. Jaros  
MOTION: Approval of the Public Hearing for a Special Permit for Floodplain Development, to be held on December 10, 2019, at 7:05 p.m.  
VOTE: **In Favor:** L. Miller, S. McLain, T. Crowley

S. Forster, M. Jaros, D. Kudgus

**Opposed:** None

**Abstained:** None

Motion Carried

**4. Call for Public Hearing for a Special Permit for Outdoor Operations and Storage to be held on December 10, 2019, at 7:10 p.m.**

Chairman Miller asked for a motion to approve the Public Hearing for a Special Permit for Outdoor Operations and Storage to be held on December 10, 2019, at 7:10 p.m.

Motion Made: T. Crowley

Motion Seconded: S. McLain

MOTION: Approval of the Public Hearing for a Special Permit for Outdoor Operations and Storage, to be held on December 10, 2019, at 7:10 p.m.

VOTE: **In Favor:** L. Miller, S. McLain, T. Crowley

S. Forster, M. Jaros, D. Kudgus

**Opposed:** None

**Abstained:** None

Motion Carried

**E. Lupo's Meat Processing Plant, 625 Dickson Street, Extension of Site Plan Approval**

Ms. Lane presented her report to the Planning Board. Sam Lupo's project to convert the existing 13,140 square-foot commercial building at 625 Dickson Street into a meat processing plant with offices was approved on December 11, 2018, and will expire after one year as no substantial improvements have been made pursuant to the approved site plan and a valid building permit. Mr. Lupo has requested an extension of the site plan approval through December 31, 2020.

The Planning Department recommends approval of the extension of site plan approval through December 31, 2020, with the following stipulations:

1. Once the details for the additional water line have been determined, the site plan shall be modified and submitted showing the details. If no new water line is added to the site, the property owner shall notify the Planning Department of such.
2. A water backflow prevention device and a grease separator shall be installed prior to the issuance of a Certificate of Compliance or a Certificate of Occupancy. Contact Brian Burns, Backflow Specialist for the Village of Endicott Water Department, to coordinate the installation of the backflow prevention device. Backflow prevention devices shall be tested annually by

a NYS DOH licensed backflow prevention device tester, and appropriate paperwork shall be filed with the Village of Endicott Water Department. Mr. Burns can be reached at 607-757-5301.

3. During construction of the addition, silt fencing shall be installed and maintained along the north and east perimeters of the property.

4. If and when the parking lot is repaved, it shall be striped according to Town Code Chapter 300, Article 51, Off-Street Parking, Loading and Stacking Regulations. The required handicapped-accessible parking spaces shall conform to the Property Maintenance Code of NYS, and shall be posted with signage displaying the international symbol of accessibility. The handicap parking access spaces shall be no less than eight-feet by eighteen-feet (8'x18').

5. Existing landscaping shall be maintained, and any dead or dying bushes shall be replaced with similar plants within one month, weather permitting.

6. Per NYS law, all commercial buildings must be inspected by the Municipal Fire Code Inspector every three years. It is the applicant's responsibility to coordinate that inspection by calling the Code Enforcement office at (607) 786-2920 once again three years after the issuance of the Certificate of Occupancy.

7. Any new exterior lighting shall first be approved by the Code Enforcement Officer.

8. For any new signage, the applicant shall first apply for a sign permit from the Building Official prior to display. All temporary signs (including price signs), portable signs, search lights, balloons, sidewalk and curb signs shall be reviewed and approved by the Code Enforcement Office prior to being placed on the property. Signs that blink, rotate, or move are not permitted.

9. Site plan approval shall be valid through December 31, 2020, unless substantial improvements have been made pursuant to the approved site plan and a valid building permit.

10. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of a building permit. The applicant agrees to construct the project in strict accordance with the site plan approved by the Planning Board. Changes to the site plan following approval may require a minor site plan review or resubmittal to the Planning Board, depending on the degree of change per Section 300-63.2. Applicability.

Mr. Jaros asked if there would be additional parking added to the site plan. Ms. Lane noted that the site is in an industrial zoning district and the parking requirement is one space per employee. Lupo's has 35 employees so they require 35 parking spaces. The site plan shows 53 spaces, including three

handicapped accessible spaces, so they do not need to add more parking spaces to the site plan. Mr. Jaros asked whether they planned to pave the grassy area by the east side of the building and Ms. Lane answered that they do not plan any changes to the previously submitted site plan. The property slopes down to the railroad tracks so the project did not require a storm management plan. Lupo's requested the extension due to funding delays for the project.

Ms. Miller asked for an extension of the site plan approval for 625 Dickson Street through December 31, 2020, with stipulations.

Motion Made: T. Crowley

Motion Seconded: D. Kudgus

MOTION: Motion to approve the extension of the Site Plan approval for 625 Dickson Street through December 31, 2020, with stipulations.

VOTE **In Favor:** L. Miller, S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus

**Opposed:** None

**Abstained:** None

Motion Carried

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

Mr. Alan Pope, Town Attorney, gave a brief presentation on the responsibilities of the Planning Board with regard to special permits and site plan reviews.

Mr. Pope explained that the Town Board legislates zoning laws and the permitted uses within each zoning district. The Town Board also determines the accessory uses which are permitted within each zoning district. All the laws for zoning come from the Town Board and Mr. Pope noted that residents who want to have their properties rezoned need to come before the Town Board to make a rezoning request. Mr. Pope explained that rezoning is a purely legislative action, and the Town Board can make a decision to accept a rezoning application, or to not entertain a rezoning application and then cannot be sued for not allowing a property to be rezoned.

Unlike the Town Board, the ZBA and Planning Board are required to entertain all applications they receive. The Planning Board has no discretion about bulk requirements (setbacks, height, parking spaces) enacted by the Town Board. The Planning Board must send all of these requests to the Zoning Board of Appeals for adjudication. Mr. Pope noted that the ZBA can provide some relief regarding the interpretation of the zoning law by approving a variance for an applicant.

Mr. Forster asked whether the Planning Board has any rights if an applicant does not adhere to the stipulations that were approved as part of a site plan. Mr. Pope answered that if an applicant violates site plan stipulations, the

Planning Board has the right to take the applicants to court to enforce them. If there are applicants who consistently ignore the Planning Board stipulations, the Planning Board has the right to petition the Town Board for attorney fees to enforce the stipulations.

Mr. Pope continued that the Planning Board has some discretion with certain features of a site plan, such as traffic flow, lighting and storm water management. However, the Planning Board must exercise reasonable discretion, or the Planning Board could become the subject of a lawsuit. Mr. Pope explained that reasonable discretion assumes that the Planning Board is applying the same type of criteria on each application. If the Planning Board uses reasonable discretion in their decision-making, it would be difficult for an applicant to bring a lawsuit against them.

The Town Board has zoning districts with special permitted uses, as long as certain conditions are met. The Town Board sets the conditions for the special permits and the Planning Board has no discretion with regard to denying a special permit when the conditions are met. The only thing that the Planning Board can determine is whether an applicant complies with the conditions for the special permit. Mr. Pope gave an example of a developer coming in and having to meet five conditions for a special permit. Mr. Pope noted that as long as that developer meets all the conditions, the Planning Board cannot deny the special permit to that developer. If they did, then the developer can sue the Planning Board. Mr. Pope noted that several years ago he defended the Town in a lawsuit that was brought by an applicant for the unjustified denial of a variance by the ZBA.

Ms. Lane thanked Mr. Pope for his overview on what the Planning Board's rights and responsibilities are regarding special permits and site plan reviews.

Ms. Lane distributed a copy of the Renewable Energy Systems Law to the Planning Board members. The new chapter deals only with solar energy systems at this time. This law is a separate chapter in the code book and does not require an advisory opinion from the Planning Board. Ms. Lane suggested that the Planning Board members review the law since they will play an important role in reviewing future solar projects, once the law is enacted.

Mr. Forster asked whether solar projects are permitted now. Ms. Lane said that right now small scale solar installations on roofs are permitted through a New York State permitting process. Mr. Materese explained that currently there is a moratorium on residential on-ground installations. Ms. McLain asked if batteries are required to store energy from the solar projects. Ms. Lane replied that some projects may use batteries for their projects. Mr. Crowley said that he had attended a battery storage class and learned that if a planning board approves a solar project with battery storage, the applicants putting in the project must train the local fire departments about dealing with them. Mr. Materese added that the new law does not permit neighbors to pool together to have a neighborhood installation; it only permits individual residential systems. Mr. Materese added the new law also addresses how

solar systems will be decommissioned once the panels have reached the end of their useful life.

Ms. Lane shared that First Choice Storage has contacted the Planning Department because the approval for their project site plan expired. The site plan is exactly the same as the one that the Planning Board approved; so Ms. Golazeski agreed with Ms. Lane that it can be done as a minor site plan review.

Upstate Tower made a minor change to their site plan. Instead of grading the property around the cell tower, they are building a retaining wall around it in order to save as many existing trees as possible. Ms. Lane noted that she is signing off on this change on the site plan as a minor site plan review.

Ms. Lane explained that barber poles are exempt from the moving sign law. The pole can rotate only when the barber shop is open.

There is a new proposal for a Dunkin' at 724 Main Street. The NYS DOT is requiring that they do a traffic study, which will delay the review of the project.

Ms. Lane noted that there is a new project on Chaumont Drive. A bicycling and gym facility plans to move into the space formerly occupied by a mattress business. Indoor recreation is permitted at the site and it does not require a 239-review, so the project will be presented at the December Planning Board meeting.

#### G. Adjournment

Chairman Miller asked for a motion to adjourn the meeting at 7:58 p.m.

Motion Made:	D. Kudgus
Motion Seconded:	M. Jaros
MOTION:	Adjourning the meeting.
VOTE:	In Favor: S. Miller, S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus
	Opposed: None
	Abstained: None
	Motion Carried

#### Next Meeting Date

The next meeting of the Planning Board is tentatively scheduled for Tuesday, December 10, 2019, at 7:00 p.m.

Respectfully Submitted,  
Carol Krawczyk