



Brian Napoli, Chairman

COUNTY OF ORLEANS
PLANNING BOARD
14016 Route 31 West
Albion, New York 14411-9382
(585) 589-3198

Dan Strong, Vice-Chairman

County Planning Board Minutes

Regular Meeting
April 27, 2023

Virtual Participation
Originating from Chamber

CPB ATTENDING: Janet Navarra-Salvatore, Michael Massaro, Christopher Kinter, Paul Schwenk, Kevin Johnson, Bruce Kirby, Bruce Newell, George Avery, Richard Moss, David Knapp, Kirk Myhill, Gary Daum, Daniel Strong, Brian Napoli, Legislator Bill Eick

CPB ATTENDING VIRTUALLY: Wesley Miller, Darryl Sanford

CPB EXCUSED: Thomas Keeler, Daniel Gardner, Thomas Fenton

CPB ABSENT: Kevin Parker, William Camann, Russell Bosch, Chris Watt, Mylynda Kuba (Resigned), Monica Seeler, Timothy Elliott, Edward Urbanik

GUESTS: Dan Wolfe (Code Enforcement Officer for Shelby), Jim Simon (Town of Yates Supervisor), Arron Kleinschmidt, Don Kleinschmidt, Mary Kurz, Gabrielle Barone (IDA), Richard Kurz, Paul Sylvestri (23-11 Attorney), David D'Anniballe (23-11 Applicant)

STAFF: Corey Winters

Chairman Brian Napoli called the regular meeting of the Orleans County Planning Board (CPB) to order at 7:00 p.m. All present for the meeting were welcomed by him.

NEW BUSINESS

Christopher Kinter made a motion for **APPROVAL** of the **February 23, 2023** minutes due to the March meeting being canceled, seconded by Kevin Johnson and carried unanimously.

Before the Orleans County Planning Board starts reviewing the applications for this meeting, Chairman B. Napoli informs the CPB Members, and the public who were in attendance that this is a business meeting and not a public meeting. He mentions that it is up to the board's discretion if they will allow the public to speak during the meeting.

ZONING REFERRALS

23-09 Clarendon

Request for Amendment to zoning text (Article II and Article VII - Regulations Governing Special Use Permits for Short Term Rentals (Section §719) and Manufactured Home Parks (Section §708)).

C. Winters states that the Town of Clarendon is adding Word Terms and Definitions to the Town's Zoning Code, which consist of Short Term Rentals (STR), Dwelling, and Bed and Breakfast. C. Winters mentions that the Town Board has determined that Short Term Rentals units are a benefit to the town and its residents. This new section of the zoning code, states that lot size, frontage, and setbacks requirements will conform to the specific zoning district in which the Short Term Rental is located within. C. Winters tells the members that Short Term Rentals shall be allowed in the following districts:

- Residential/Hamlet (RH)
- Residential/Agricultural District (RA)
- Business/Commercial District (BC)

All Short Term Rentals shall require a Special Use Permit

- o Require Site Plan review by the Planning Board
- o Code Enforcement Officer must inspect the property
- o Duration of the Special Use Permit is for 1 year
- o Short Term Rentals establishment which has not operated as such for a year or longer must reapply for a new Special Use Permit
- Off Street Parking needs to be provided

The other zoning text that is being revised in the Town's Zoning Code, is Section §708. This section deals with utilities within Mobile/Manufactured Home Parks. Section O of Section §708 has since been revised to read that now gas is to be installed above ground rather than underground. And for Section T, within Section §708, has been updated to read that all fuel tanks used for heating within a mobile/manufactured Home Park shall either be installed underground per National Fire Protection Agency Standards or shall consist of a maximum of two (2) 120-gallon above-ground vertical tanks.

D. Strong mentions that the Short Term Rental will need a Special Use Permit and Site Plan Review, which means they would need to be sent to the Orleans County Planning Board for their view. C. Winters adds off D. Strong comments, stating that if the property falls within a "trigger" for an Orleans County Planning Board review, then yes it would need to come for their review. C. Winters does bring up an option, to update the Orleans County Planning Board's Intermunicipal Agreement document to include Short Term Rentals. The thought process is to limit the number of applications to the board for its review. C. Winters says we do not want to have 14 applications for Short Term Rentals on top of the other applications every month. Similarly how we do not see single-family housing, pole barns, or fences.

No other comments or feedback were heard by the boards for either the Short Term Rental Zoning Text (Section §716) and or the Mobile/Manufactured Home Parks (Section §708)

[RECOMMENDATION FOR 23-09:](#) Bruce Kirby, made a motion for **APPROVAL**. Seconded by Gary Daum and carried by all voting members (Kevin Johnson abstaining).

Comments:

Article VII – Section §719, is a very good starting point for the Short-Term Rental Regulations. While the section is general, it provides a point of where the Town of Clarendon can start enforcing Short Term Rentals when they start operating in the Town. It has been mentioned in other meetings that you cannot force what is not in your Zoning Code.

This stepping-stone and more detail can be added in the future if the Town of Clarendon does more research regarding Short Term Rentals and believes more restrictions or details need to be added, IE. Noise Complaints or Lack of upkeep on these properties operating as a Short Term Rentals.

23-10 Kendall

Request to change Zoning Classification Tax Parcels (33.4-1-17.1 and 33.4-1-19-1) from Residential Hamlet to General Business.

C. Winters introduces the application to the board, stating that the Town of Kendall is proposing changing tax parcels 33.4-1-17.1 and 33.4-1-19-1 from Residential Hamlet to General Business. For parcel 33.4-1-17.1, the current owner is in the process of developing the property into self-storage units. While the project is in the early stages, the applicant wants to get this first step on changing the zoning from Residential Hamlet to General Business. Once the change is approved, they can proceed with engineering drawings. After which, the application will go in front of the Town of Kendall’s Planning Board for a Special Use Permit, and Site Plan Review. At this point, the project would need to be sent to the Orleans County Planning Board for review per General Municipal Law §239.

Parcel 33.4-1-19.1 The Current owner is operating a home business on-site. However, recently their business has grown and is not considered a home business. The owners would like to construct a pole barn on the property to house the business. Due to the business already operating it will be an allowable use within the General Business Zoning District, so the owners will not need to apply for a Special Use Permit and Site Plan Review.

Additionally, C. Winters states that a total of 7.5 acres are being affected by this zoning change. New York State Parks, Recreation, and Historic Preservation determined that the project site does not contain any items or structures that would be eligible to be listed on the State Register of Historic Places. According to SEQR, the project is not located or encroaching on wetlands, also is not located within a 100-year flood plain.

After the introduction of the application to the Orleans County Planning Board, B. Newell mentions that the entrance to the self-storage project will be located on Route 272 (County Line Road) Not on Route 18, and the current owner of the site also owns Partyka Farms, located across the street.

RECOMMENDATION FOR 23-10: Christopher Kinter made a motion for **APPROVAL**. Seconded by David Knapp and carried by all voting members (Bruce Newell and Dan Strong abstaining).

Comments:

Once the Town of Kendall approves the zoning changes, the Town of Kendall needs to update the Zoning Map to reflect the changes, to comply with Article IV Section §265-19 in its Zoning Code. Therefore, the Town office has the most up-to-date version available for the public and officials within the Town of Kendall.

Request for Area Variance, Special Use Permit, and Site Plan Review for a Farm Labor Housing Project. Project located at 1692 N. Lyndonville Road.

Before C. Winters introduces the application, he mentions that the following application will consist of two (2) recommendations, from the CPB, due to having the final decision coming from two different boards within the Town of Yates.

- 23-11A: Area Variance – Town of Yates Zoning Board
- 23-11B: Special Use Permit and Site Plan Review – Town of Yates Planning Board

C. Winters introduces the application to the board. The applicant is proposing a farm labor housing residence located at 1692 N. Lyndonville Road. The applicant is proposing a farm labor housing residence located at 1692 N. Lyndonville Road. The proposed project will be a new construction of a 40' x 104' structure. Once the residence is constructed, it will house 30 agricultural workers. The project will house 30 agricultural workers, H2A and H2B workers. While these terms of workers may not be known by everyone, Herman Legal Group defines these workers' terms as the following:

- *H2A workers*: The Immigration and Nationality Act allows for the lawful admission into the United States of temporary, nonimmigrant workers to perform agricultural labor or services of temporary or seasonal natures.
- *H2B workers*: Allows United States employers to temporarily hire nonimmigrants for nonagricultural jobs in the United States. The employment must be a limited term, such as a one-time occurrence, season, peak load, or intermittent need.

The extent that the worker's activities fall within the AML §301-11 farm operation definition and the workers are performing activities related to the production, preparing and marketing the farm operation's crops, and performing activities such as washing and packaging for marketing, but **NOT processing**.

C. Winters mentions that according to the submitted SEQR, 0.50 acres will be physically disturbed for this project while the project is located on an 85-acre parcel. The parcel on which the project is located is currently enrolled in the State Certified Orleans County Agricultural District No. 1. The project site does not contain any building, or archaeological items that are listed on the National or State Register of Historic Places after review by the New York State Office of Parks, Recreation, and Historic Preservation to be eligible for listing on the State Register of Historic Places. The parcel does not contain any wetlands, or any other water bodies regulated by a federal, state, or local agency, and the proposed project will not physically alter existing wetlands or waterbodies. Once the project is completed, it will hook up to the public water supply; however, the project will have a septic system located on-site per the site plans.

C. Winters discusses that the Site Plan is calling for sharing the existing driveway located on the property, which is owned by a different party. The applicant has entered an Access Easement Agreement with the owner of the driveway. The site plan has been revised before being sent to Orleans County Planning Board for its review. The reason for changing the site plan was to create the necessary setbacks needed to meet the Town of Yates Zoning Regulations within section §730-C.

C. Winters discusses the zoning sections that will be affected by this application which are Special Use Permit, Site Plan Review, and Farm Labor Camps. The Town of Yates' Zoning Code, discusses Farm Labor Camps. C. Winters mentions some of the guidelines within this section that the project needs to meet:

- Special permits for the establishment and operation of Farm Labor Camps are subject to the annual inspection. Upon inspection, if all of the requirements of the original permit have been complied with,

and no new or additional request or relief is sought, the Planning Board shall authorize the continuation of the Special Use Permit.

- Labor Camps may only operate during the growing and harvesting season (May to November) except when extraordinary circumstances are shown.
- If the proposed labor camp is within a County Agricultural District and is operated in support of reasonable farming practices, the Planning Board may not unreasonably restrict its operation.

As for the Special Use Permit section within the Zoning code, the following needs to be followed:

- The proposed special use is consistent with the general intent of the Town's Comprehensive Plan and with each of the specific purposes outlined in this Local Law.
- The Planning Board may impose additional conditions or restrictions as it may deem necessary before approving any special use permit application to protect public health and safety, the quality of the Town's natural resource base, and the value of the property.
- Operation of the proposed special use is no more objectionable to the uses of nearby properties, because of dust or smoke emission, noise, odors, fumes, pollution of air or water, including subsurface waters, unsightliness or similar conditions than would be the operation of any permitted use.

For Site Plan Reviews the Town of Yates has standards that the applicant needs to follow. Some examples are included:

- Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
- North arrow, scale, and date.
- Boundaries of the property plotted to scale.
- Existing watercourse and bodies of water.

The Planning Board may require the following items on top of the previously listed items of information

- Provision for pedestrian access if necessary.
- Location of fire lanes and hydrants.
- Designation of the amount of building area proposed for retail sales or similar commercial activity.
- Other elements integral to the proposed development as considered necessary by the Planning Board.

C. Winters mentions that the traffic generation is not expected to increase dramatically, the roadway system that the proposed project is located on is designed to handle the potential increase in traffic density. Route 63 is the main artillery roadway system through the Village of Lyndonville and the Town of Yates.

While there necessarily will not be an increase in vehicular traffic, there is a risk of more pedestrian traffic along this roadway. In addition, since there are no current sidewalks on the West side of N. Lyndonville Road, the workers of the farm labor housing would have to walk on the narrow shoulder, or they would need to cross N. Lyndonville Road and use the existing sidewalk on the East Side. At this time of review, and recommendation, it is unclear if the applicant will be providing transportation for the workers, to and from the job locations, and other everyday needs of the people.

After the introduction of the application to the Orleans County Planning Board, G. Daum provides more detail regarding the project and introduces the parties that are associated with this application which attending the meeting in person (Jim Simon, Richard Kurz, David D'Anniballe, and Paul Sylvestri). At this time, G. Daum welcomed Paul Sylvestri to present to the board the application on behalf of the applicant. Paul Sylvestri mentions that the current site plan used for this presentation has been updated and he discusses and points out the changes on the screen to help the board members understand the changes. He also mentions that there

will be no future expansion to this project. Once the building is constructed, there will be no more housing on this parcel. After this brief introduction to the project, Paul Sylvestri turned the meeting back to the CPB Members for questions.

D. Strong asks the questions regarding H2A and H2B workers being temporary, Paul Sylvestri provides more detail regarding this question. D. Strong voices his concerns about this structure becoming vacant when the laborers are not in the United States, but Paul Sylvestri mentions that this structure will never be vacant, there will always be some laborers living within the residence.

At this time, Richard Kurz stands up and mentions that there are two companies associated with this application. While one company is growing the products, the other is processing them and shipping them out, his concern is that they are not only processing their products, but they have products coming in from over 20 different farms within the County. C. Winters adds that the process used at the company, is the use of washing, transferring, and shipping of products, not the process of changing the products into something else, ie. apples to apple juice.

Richard Kurz at this time asked the CPB Board members to interpret the Agriculture and Markets correspondence regarding H2A and H2B workers. After a brief read of the documents, the board decided to add a condition to the recommendation to have a final conscience regarding this issue via Agriculture and Markets with all concerned parties involved. So all parties are satisfied.

Lastly, D. Strong would like to add a condition to the 23-11B recommendation to have the site plan sent either to local code enforcement officers or to the Orleans County Office of Emergency Management for their review and comments.

[RECOMMENDATION FOR 23-11A:](#) Janet Navarra-Salvatore made a motion for **APPROVAL with CONDITIONS**. Seconded by Bruce Kirby and carried by all voting members (Gary Daum and George Avery abstaining).

Comments:

The County Planning Board requested and received applications for The County Planning Board acknowledges there is a disagreement between the applicant and the host community of the Town of Yates in the content, if not the very scope, nature, and timing of the land use process for this proposed farmworker housing. That discord is not a matter to be adjudicated here but could be resolved elsewhere.

The County Planning Board is further aware that some provisions of municipal zoning regulations in Yates and elsewhere for the siting of farmworker housing include criteria that may indeed infringe upon right-to-farm provisions of New York State Agriculture and Markets Law § 305-a. One remedy and clarification that has been encouraged is to include language within the zoning ordinance text that qualifies that the restrictions can only apply to farm operations *within* State-certified County Agricultural District (No. 1). And its credit, Yates has already made that accommodation in Section 730 (Special Permit Criteria for Farm Labor Camps). But to the possible disadvantage to it and other municipalities in the same predicament, using definitions of agriculture and farming within their zoning ordinances may become problematic to the extent they conflict with agriculture as crafted in and interpreted from, New York State Agriculture and Markets Law § 301.

The latter may indeed be the currently unresolved issue that typically falls within the state agency's authority: to what extent, if any, is housing for workers in agricultural processing facilities subject to right-to-farm protection as workers involved in the production?

Conditions:

1. All parties involved (Applicant, Attorneys, and Town of Yates) conduct a meeting with the New York State of Agriculture and Markets to receive a common interpretation regarding H2A and H2B workers and about the type of work that HH Dobbins will be using the H2B workers for.

[RECOMMENDATION FOR 23-11B](#): David Knapp made a motion for **APPROVAL with CONDITIONS**. Seconded by Christopher Kinter and carried by all voting members (Gary Daum and George Avery abstaining).

Comments:

Per Agriculture and Markets correspondence:

“It is the Department’s understanding that the H2A workers would be housed approximately from February to October/November. And according to the information provided, some H2A workers are needed in the winter months, and Dobbins proposes that the H2B workers could be housed in the same premises during some of the remaining months.”

“Agriculture and Markets has found the following to be unreasonably restrictive, setbacks that are greater than residential setbacks, Special Use Permit requirements and screening requirements as applied to farm worker housing”

“A farm operation may consist of multiple parcels in different Towns or Counties, as long as the parcel is located within a County-adopted, State Certified Agriculture District. The Department has found streamlined site plan review to be a reasonable requirement.”

Conditions:

1. Send the most up-to-date Site Plan to the Orleans County Department of Planning and Development so the file can be updated for future reference.
2. Send the Site Plan to the Orleans County Officer of Emergency Management (OEM) or local code enforcement for their review.

OTHER BUSINESS

[NEW YORK STATE IN-PERSON TRAINING SESSION – TOPIC SELECTIONS](#): C. Winters informs the CPB members on this year’s In-Person Training Topics. The training will be on June 27, 2023, from 5 pm to 9 pm, located at the HOAG Library in Albion. The chosen topics will be Cemeteries 101, Public Meeting and Hearings, SEQR: Basics, and Intermunicipal Cooperation (Building Code Enforcement).

[SPRING 2023 LOCAL GOVERNMENT WORKSHOP – REGISTRATION OPEN](#): C. Winters informs the board members that the Genesee/Finger Lakes Regional Planning Council will be holding its annual conference this year at Batavia Downs on May 18. The price is \$75 per person, then \$85 from May 4th to May 15th. C. Winters tells the board members to talk to their town or Village about reimbursement for attending this conference.

[UPDATES TO THE ORLEANS COUNTY PLANNING BOARD WEBSITE](#): C. Winters mentions that the Orleans County Planning Board website has been updated with the following documents and information:

- Updated the introduction

- Added information regarding the Country Referral Map along with the link to an interactive map and information on what “triggers” a County Planning Board Review
- Link to download the Zoning Referral Cover letter
- Added information regarding what municipal actions may be subject to County Planning Board Review
- Guidelines for what is a completed application – Link to downloadable PDF
- Added information on how you can apply for County Planning Board Review
- Updated Further Guidance
- Orleans County Planning Board Review Process – Downloadable PDF
- FAQ about the Orleans County Planning Board – Downloadable PDF

[UPDATES TO THE ORLEANS COUNTY AGRICULTURAL DISTRICT WEBSITE:](#) C. Winters mentions that the Orleans County Agricultural District website has been updated with the following documents and information, with that said the website has not been updated fully since 2016:

- Updated the introduction
- Added a map showing the county and its enrolled parcels as of 2022
- Link to the Letter of Intent – Downloadable PDF
 - o Updated document to include Email and/or Phone Number
- Added Contact information regarding whom to see if your parcel is enrolled in the Orleans County Agricultural District No. 1
- Updated information and maps – Downloadable PDFs
- Agricultural District Overview
- Approved Agricultural District C-1 Enrollment 2022 Map
- Orleans County Agricultural District No. 1 Brochure (The Who, What, When, Why, and How)
- What is the Difference between Agricultural District V. Agricultural Assessment

[RESOLUTION TO PASS SEQR FOR THE ERIE CANAL LWRP:](#) During the draft stages of this document/plan, the County allowed all the Towns and Villages to provide their feedback and comments. With that, said Orleans County received no comments or feedback from the Towns or Villages regarding the Erie Canal LWRP. Once the County Planning Board passes the SEQR it can be brought before the Legislation for adoption.

Kirk Myhill made a motion for **APPROVAL**. Seconded by Paul Schwenk and carried by all voting members (Janet Navarra-Salvatore, Richard Moss, and Bruce Newell abstaining).

[DISCUSSION REGARDING ATTORNEY LOOKING OVER APPLICATIONS BEFORE BEING SENT TO CPB FOR REVIEW:](#) While this topic was not on the official Chairman Napoli wanted to address a concern that Gabrielle Barone with the IDA has been noticing with projects and applications that she is noticing in her line of work. She tells the board members that many of the developers use out-of-state banks for their financing, and they require material and documents to be correct and in order. She proposes to have the Town or Village attorney review the application to make sure everything is correct, ie. Zoning Code and SEQR. Chairman Napoli mentions that maybe this is something we can look into for the larger projects rather than just the small projects. Gabrielle Barone agrees with that idea. C. Winters adds that the County Planning Website has been updated to include a PDF that lays out the documents required for the Orleans County Planning Board to consider an application complete. And we could send out a letter outlining the documents required next month if we have a meeting, since we are getting new members on the board, it would be a good idea just to refresh everyone’s minds on this topic.

ADJOURNMENT

There being no further business Kirk Myhill made a motion to **ADJOURN** at 8:10 p.m., seconded by David Knapp and carried unanimously.

Respectfully Submitted,

Corey D Winters

Corey D Winters
Planner/Acting Secretary