

MINUTES
LEWIS COUNTY PLANNING BOARD
August 16, 2018

- (1) **Call to Order:** Chairman Kaido called the regular meeting of the Lewis County Planning Board to order at 2:30 PM in Room 327 on the 3rd floor at the Lewis County Court House, Lowville, New York. Roll call was requested by Chairman Kaido.
- (2) **Roll Call:** Board Members Present: Michael Kaido, Ronald Burns, Patricia O'Brien, Gary Rosiczkowski and Warren Shaw. Staff Present: Casandra Buell, Senior Planner. Additional attendees: Nick Altmire, Linking Lewis County. *Frank Pace, Director of Planning, entered the meeting at 2:45 PM.
- (3) **Reading and Approval of Minutes:** The May 17, 2018 meeting minutes were received and there were no modifications made by the Board members present. Mrs. O'Brien motioned to approve the minutes; Mr. Burns seconded the motion, which carried unanimously.
- (4) **Correspondence and Communication:** None
- (5) **Report of Officers:** None
- (6) **Report of Special Committees:**

239-M Review

Mrs. Buell read the following review to the Board:

VILLAGE OF LOWVILLE VILLAGE BOARD

Proposed zoning map amendment for a certain area in the Village of Lowville from Neighborhood Commercial (NC) to Auto Commercial (AC).

Village of Lowville – Applicant

The General Municipal Referral Form, SEQE Environmental Assessment Form (EAF) and copies of textual amendments were submitted by the Menter Law Firm on behalf of the Village of Lowville. It should be noted that a Zoning Map with the proposed re-designated tax parcels was submitted; however, the highlighted properties appeared to include parcel 212.12-02-05.100, that of which was not included in the submitted textual amendment.

The Village of Lowville is proposing to amend their Zoning Map, last amended 3-1-16, to re-designate several properties currently designated as a NC Zone, defined as Neighborhood Commercial, to an AC Zone, defined as Auto Commercial. The parcels are located on the south-eastern end of Shady Avenue. The area in question is, by definition, a commercial area that includes small scale retail sales and service establishments which are closely surrounded by dwellings. According to the Town and Village of Lowville Comprehensive Plan 2008, the proposed zoning area, Auto Commercial, are areas along major highways that should be designated for automobile uses which are inappropriate in the Village center area. After analyzing these definitions, it seems the area in question fits the location and character standards of the current NC Zoning, Neighborhood Commercial, rather than the proposed AC Zoning, Auto Commercial.

The Village has provided no justification or explanation for the proposed change. It appears that the proposed re-designation is an example of spot zoning, which often focuses on a small amount of land without considering the area and land uses surrounding the parcel(s) and is commonly considered the exact opposite of planned zoning. These rezoning decisions are often the subject of spot zoning claims; a municipality can lawfully rezone an area if its actions are shown to be consistent with the community's land use policies; however, it doesn't seem as though this change would align with the current Comprehensive Plan for the Village.

Recommendation: Disapprove

After a brief discussion regarding the negative effects of spot zoning and the ability for the Village of Lowville Village Board to ultimately make the final decision, Mr. Burns made a motion to disapprove the zoning map amendment as recommended above, seconded by Mrs. O'Brien, which carried unanimously.

Mrs. Buell then read the following review:

VILLAGE OF LOWVILLE VILLAGE BOARD

Proposed zoning text amendment to the Village of Lowville Zoning Law to establish regulations for land contouring.

Village of Lowville – Applicant

The General Municipal Referral Form, SEQR Environmental Assessment Form (EAF) and copies of textual amendments were submitted by the Menter Law Firm on behalf of the Village of Lowville. It should be noted that the submitted proposed local law should be changed from "Section 201-18.2 Change in the contours of land (Land Disturbance)" to "Section 201-1305 H. Change in the contours of land, or landfills" as per the latest Village of Lowville Zoning Law.

Placement within Current Law:

The proposed law identifies that it would supplement the current law by adding the amendment to Article XIII Administration and Enforcement. It appears as though this would not be the best place to insert the amendment, and the Board suggests that the Village create a new article in their Zoning Law for this amendment rather than inserting it into this article.

The current law identifies the requirement of obtaining a permit to change the contours of land or landfills in §201-1305 H. The Board suggests that the Village add "as regulated in Article (insert the new article number) of this Chapter," similar to how §201-1305, F is worded.

Establish a Permit:

The proposed law states that the applicants must obtain a Land Disturbance Permit and should contact their Zoning Officer to obtain such permit; however, the Board recommends that the Village amends §201-1325 A to include the proposed Land Disturbance Permit. The proposed law should also include information on the procedure for approval and the required information to be submitted when applying for the new Land Disturbance Permit.

In review of the documents provided by Menter Law Firm on behalf of the Village of Lowville, with the suggested changes, it appears that the zoning text amendment addition will comprehensively define the new regulations set by the Village of Lowville.

Recommendation: Approve with Comments

Mr. Shaw made a motion to approve the zoning text amendment with the comments listed in the review, seconded by Mr. Rosiczkowski, which carried unanimously.

Mrs. Buell then read the last review:

TOWN OF TURIN ZONING BOARD OF APPEALS

Use variance request to permanently install a park model RV (recreational park trailer) on tax map # 290.00-04-05.113 located on Burdicks Crossing Road.

Richard Andrews (et al.) – Applicant

It should be noted that, according to the application and the submitted materials, there appears to be conflicting tax map parcel numbers noted. Prior to moving forward with any use variance proceedings, the correct tax map number should be properly verified with the Lewis County Real Property Department.

▪ *Compatibility With Adjacent Uses:*

The adjacent properties are used for Agricultural and Commercial purposes. It does not appear that the applicant has defined the exact use that the proposed Park Model RV Trailer will serve; however, it is assumed that, since they will be moving their park model home from its existing location to the proposed location on Burdicks Crossing Road, it is a residential structure. If this will be a residential use, it appears to fit with the nearby uses; however, if it is to be used as a “camp” it is not a permitted use in the C District.

▪ *Traffic Generation and Effect:*

Burdicks Crossing Road is a moderately traveled roadway due to its connection from State Route 12 to remote waterways and the nearby drive-in movie theater. The minimal traffic that is generated to this lot should not increase traffic generation and, as the applicant notes on Page 2 of the submitted SEAF, the proposed action should not result in a substantial increase in traffic above present levels.

▪ *Protection of Community Character:*

The proposed project is located within the C District. As noted in the submitted Letter of Zoning Referral, Section 330 (2) does not allow an RV-type structure unless there is an existing single-family dwelling with conditions. Although this looks to be a permanent structure, complete with a drilled well and engineered septic system, the concern is that, according to the Letter of Zoning Referral, this structure is not approved by HUD and it is prohibited in the Town of Turin Zoning Law.

▪ *Signage:*

Not applicable

▪ *Drainage:*

Not applicable

▪ *Parking:*

Not applicable

- *Landscaping/Screening:*
Not applicable

- *Lighting:*
Not addressed in the application

Recommendation: Matter of Local Concern

To justify a use variance, the burden of proof is on the applicant and they must prove that there is no reasonable return, there are unique circumstances, there are no self-created hardships and that there are no alterations to the essential neighborhood character. With that said, since the Town of Turin Rural Development Law was last amended in 2011 and the applicant, according to the submitted Contract to Purchase, initiated the intent to purchase the property in May of 2018, it will be difficult to prove that this was not a self-created hardship.

Mr. Burns made a motion to recommend this as a matter of local concern, seconded by Mr. Shaw, which carried unanimously.

(7) Report of County Planner:

Response from municipalities regarding previously submitted/reviewed projects:

- None

(8) Unfinished Business: None

(9) New Business: Mrs. Buell introduced the attendees to the new County Planning Board members; Warren Shaw and Gary Rosiczkowski. She then reminded the board of their 4-hour training obligations as part of this Planning Board and notified the board that the Lewis County Planning Department will be holding a 4-Hour Land Use Training Workshop on September 18, 2018. This training will fulfill their 4-hour training obligations.

(10) Adjournment: There being no other business, a motion to adjourn the meeting was made by Mr. Burns, seconded by Mr. Rosiczkowski., which carried unanimously. Chairman Kaido adjourned the meeting at 3:05 PM.

Respectfully submitted,



Casandra Buell
Senior Planner