

**PLANNING BOARD
TOWN AND VILLAGE OF ARCADE
17 Church Street, Arcade, New York 14009
Village Office 585 492-1111
Town Office 585 492-4685**

At a meeting of the Planning Board of the Town and Village of Arcade held on Wednesday, February 13, 2013, at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York:

MEMBERS PRESENT: Andy Schnitzler, Aaron Felber and Rich Kosmerl

MEMBERS ABSENT: Paul Bijhouwer, Don Suttell

OTHERS PRESENT: Beth and Dan Cass

The meeting was called to order at 7:00 P.M. by Acting Chairman Rich Kosmerl.

APPROVAL OF MINUTES:

MOTION by Rich Kosmerl, seconded by Aaron Felber and unanimously carried to accept the minutes of the meeting of January 9, 2013 with the following correction: The motion for SEQR on page two should read "MOTION by Rich Kosmerl, seconded by Andy Schnitzler and unanimously carried, that based on SEQR Section 617.5 C 7 this is an unlisted action."

Acting Chairman Kosmerl stated that upon further study, the above SEQR determination was incorrect.

MOTION by Rich Kosmerl, seconded by Andy Schnitzler and unanimously carried, that Site Plan Application, PERMIT NO. 2173-SPR, SUBMITTED BY DAN AND BETH CASS, REQUESTING A 6' X 16' ADDITION TO THE WEST SIDE OF JOHN AND MARY'S RESTAURANT LOCATED AT 621 W. MAIN STREET, is determined to be a Type II Action under SEQR Section 617.5 C 7 and not subject to further review.

SITE PLAN REVIEW, PERMIT NO. 2173-SPR, SUBMITTED BY DAN AND BETH CASS, REQUESTING A 6' X 16' ADDITION TO THE WEST SIDE OF JOHN AND MARY'S RESTAURANT LOCATED AT 621 W. MAIN STREET:

In discussion:

1. The Site Plan Checklist is complete.
2. The Acting Chairman read the recommendation and comments from the Wyoming

County Planning Board (see Attachment A.) The WCPB recommended approval with comments.

3. The WCPB is concerned about having enough parking on the West side and for travel lane. The plot diagram was reviewed and the Planning Board determined that the parking and travel lane is sufficient.
4. There were no further comments from the Board or applicants.

MOTION by Rich Kosmerl, seconded by Andy Schnitzler and unanimously carried, to approve Site Plan Application, PERMIT NO. 2173-SPR, SUBMITTED BY DAN AND BETH CASS, REQUESTING A 6' X 16' ADDITION TO THE WEST SIDE OF JOHN AND MARY'S RESTAURANT LOCATED AT 621 W. MAIN STREET.

The Secretary informed the applicants that the ZEO was not able to attend this evening. He will sign the Certificate of Zoning Compliance tomorrow and call them when it is available for pick up.

DEVELOPMENT OF AN AMENDMENT TO THE COMPREHENSIVE PLAN AND ZONING REGULATIONS FOR ENERGY DEVELOPMENT:

The Secretary distributed the following:

1. A letter from Town Supervisor Berwanger and the Town Board (see Attachment B), directing the Planning Board to develop a plan which protects the town residents, businesses and infrastructure from undesirable issues regarding the possibility of Marcellus Shale/hydrofracking drilling and all of the collateral affects that are generally associated with gas exploration and production;
2. A copy of NYS Statute on Comprehensive Planning – Town Law 272-a. She obtained this from the website and it pertains to the steps for amending the Comprehensive Plan (see Attachment C);
3. Copies of the following information provided by Art Buckley, Wyo. Co. Planner, that the Board will find helpful in developing the Zoning Laws:
 - a. What Zoning Laws should be included in a Town Energy Policy,
 - b. The Wyo. Co. Vehicle Regulations,
 - c. The Town of Bennington Wind Energy Zoning Laws.

In discussion:

1. Regarding the letter from the Supervisor and Town Board, the Planning Board believes the intent was to develop an Energy Policy encompassing not only natural gas exploration and production, but also and not limited to, oil, wind, solar, biomass and geothermal as recommended by the Wyo. Co. Planner. The Secretary was directed to send a letter to the Town Board and a copy to the Village of Trustees for clarification

and informing them that the concern of horizontal hydrofracking would be the first thing addressed.

2. Since zoning laws cannot be established for anything not listed in the Comprehensive Plan, the first step will be to develop an amendment/addition to that plan for Energy Development within the Town/Village. See Attachment C for the steps involved.
3. Who will be Lead Agency? It will need to be researched to determine if it has to be the Town or if the Planning Board can be the Lead Agency. SEQR Section 617.6 - Initial Review of Actions and Establishing Lead Agency was reviewed. This could be a Type I Action since it will be affecting Ag districts.
4. Is a SEQR needed? The Secretary volunteered to contact the Wyo. Co. Planner for his input. The Board also asks Chairman Bijhouwer to research this as it is his area of expertise. If it is needed, that is the first step in the process of amending the Comprehensive Plan. An Environmental Impact Statement will need to be completed as per NYS Statute on Comprehensive Planning – Town Law 272-a. Who has to complete this, the Planning Board or the Town/Village Boards?
5. The amendment and subsequent zoning laws should include privatized energy such as a gas well or windmill on private property for the sole use of the resident owner.
6. Some of the issues to be addressed in the zoning laws:
 - a. A performance bond that not only protects the county and town but also neighboring properties;
 - b. Downlighting;
 - c. Sound limitations such as no drilling between 11:00 P.M. and 7:00 A.M.
 - d. Not only a waste water plan but also a backup plan for hydrofracking. Any chemicals used in the process must be removed from site and treated.
 - e. Roads/bridges.

In preparation for the next meeting, Board members will review and become familiar with the materials distributed tonight.

ADJOURNMENT:

There being no further business brought before the Board, the meeting adjourned at 7:45 P.M. upon **motion** by Andy Schnitzler, seconded by Aaron Felber and unanimously carried. The next regular meeting of the Planning Board of the Town and Village of Arcade is scheduled for Wednesday, March 13, 2013 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York.

Respectfully submitted,

Holly L. Almeter
Secretary

Attachment A
Minutes Feb. 13, 2013

WCPB Review #
13-01

**Wyoming County Planning Board
REFERRAL RESPONSE FORM**

For referrals as required in accordance with NYS General Municipal Law Article 12B, Section 239-l and m

Location of Proposed Action: 621 West Main Street, Village of Arcade

Applicant: Dan and Beth Cass

Type of Proposed Action (separate form completed for each action): Construction of a 6'x16' addition to an existing structure

- Area Variance Use Variance Site Plan Special Use Permit Other: New Zoning Ordinance/Local Law New/Amend Comprehensive Plan Amend Zoning Text/Map

WCPB Recommendation on this Action

The WCPB took the following action at their meeting on February 4, 2013 with respect to this referral:

- Approval with Comments Disapproval w/comments None No recommendation;

proposed action has no significant negative county-wide or inter-community impacts

Comments: The proposed action is the construction of a 6'x16' addition to the existing John & Mary's Restaurant. No variances are requested in conjunction with this project.

1. The Village and applicant are commended for submitting a completed Site Plan Checklist with the referral.
2. The property is zoned Highway Commercial (HC). The proposed action is an addition to an as-of-right use in the HC Zoning District.
3. There appear to be no significant county-wide negative impacts related to this proposed project.

Site Plan

- I. A Site Plan drawing including the name and address of applicant and person responsible for preparation of drawing(s) was provided. The drawings have a north arrow, scale and date.
- II. The boundaries of the property are shown.
- III. There do not appear to be any outstanding issues related to the Checklist that need to be addressed by the Applicant.
- IV. A record of application for and approval status of all necessary permits from State and/or County agencies or officials must be provided by the Applicant.
- V. A New York State SEQR Short Environmental Assessment Form has been submitted.

4. WCPB is concerned about having enough parking on the West side and for travel lane.
5. Section 239-m of general municipal law requires referring bodies to file a report of the final action it has taken regarding the referral made to the WC Planning Board. This report must be sent to the WCPB within thirty days after final action.

Report of Final Action:

Within 30 days after final action, *the referring body is required to file a report of its final action* with the Wyoming County Planning Board. If such action is contrary to a WCPB recommendation of modification or disapproval, this report should include the reasons for such contrary action.

Note: Please provide this report of final action below on the PINK response form and mail or deliver to:
Wyoming County Planning & Development, 6470 Route 20A, Suite 4, Perry, NY 14530-9796

On _____ (date), the _____ (Board Name)
took the following final action on the above proposed action previously referred to the WCPB.
 Approval Modification Disapproval

Report by: _____ Date: _____

mine

Attachment B Minutes Feb. 13, 2013
Pl. Board

A. Douglas Berwanger
Town of Arcade

15 Liberty Street
Arcade, NY 14009
Phone (585) 492-4685
Fax (585) 492-1834

January 10, 2013

Paul Bijhower
217 Park Street
Arcade, NY 14009

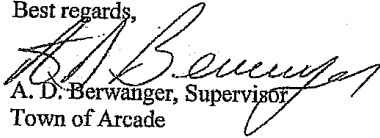
Dear Paul,

I am writing to you regarding the recent discussions at the Town Board meetings regarding energy development in the Town of Arcade. As you are well aware this discussion is enabled by the possibility of Marcellus Shale/Hydrofracking drilling and all of the collateral affects that are generally associated with gas exploration and production.

The Town Board's expectation of the Planning Board is to develop a plan which protects the town residents, businesses and infrastructure from undesirable issues.

I have asked Art Buckley, Wyoming County Planner, to assist the Board in development of the plan. He has forwarded to me, which I am sending on to you, an outline of information that might possibly be incorporated into the new plan. Art has also agreed to offer any assistance that the Planning Board might need. If you have any questions or wish to discuss the details of the Board's vision please give me a call at 585-356-8977 or 585-786-8877.

Best regards,


A. D. Berwanger, Supervisor
Town of Arcade

Steps for amending Comprehensive Plan

my copy

NYS Statute on Comprehensive Planning
Town Law § 272-a

Attachment C
Minutes Feb. 13, 2013
Pl. Board

4. Preparation. The town board, or by resolution of such town board, the planning board or a special board, may prepare a proposed town comprehensive plan and amendments thereto. In the event the planning board or special board is directed to prepare a proposed comprehensive plan or amendment thereto, such board shall, by resolution, recommend such proposed plan or amendment to the town board.
5. Referrals.
- (a) Any proposed comprehensive plan or amendment thereto that is prepared by the town board or a special board may be referred to the town planning board for review and recommendation before action by the town board.
 - (b) The town board shall, prior to adoption, refer the proposed comprehensive plan or any amendment thereto to the county planning board or agency or regional planning council for review and recommendation as required by section two hundred thirty-nine-m of the general municipal law. In the event the proposed plan or amendment thereto is prepared by the town planning board or a special board, such board may request comment on such proposed plan or amendment from the county planning board or agency or regional planning council.
6. Public hearings; notice.
- (a) In the event the town board prepares a proposed town comprehensive plan or amendment thereto, the town board shall hold one or more public hearings and such other meetings as it deems necessary to assure full opportunity for citizen participation in the preparation of such proposed plan or amendment, and in addition, the town board shall hold one or more public hearings prior to adoption of such proposed plan or amendment.
 - (b) In the event the town board has directed the planning board or a special board to prepare a proposed comprehensive plan or amendment thereto, the board preparing the plan shall hold one or more public hearings and such other meetings as it deems necessary to assure full opportunity for citizen participation in the preparation of such proposed plan or amendment. The town board shall, within ninety days of receiving the planning board or special board's recommendations on such proposed plan or amendment, and prior to adoption of such proposed plan or amendment, hold a public hearing on such proposed plan or amendment.
 - (c) Notice of a public hearing shall be published in a newspaper of general circulation in the town at least ten calendar days in advance of the hearing. The proposed comprehensive plan or amendment thereto shall be made available for public review during said period at the office of the town clerk and may be made available at any other place, including a public library.

7. Adoption. The town board may adopt by resolution a town comprehensive plan or any amendment thereto.
8. Environmental review. A town comprehensive plan, and any amendment thereto, is subject to the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations. A town comprehensive plan may be designed to also serve as, or be accompanied by, a generic environmental impact statement pursuant to the state environmental quality review act statute and regulations. No further compliance with such law is required for subsequent site specific actions that are in conformance with the conditions and thresholds established for such actions in the generic environmental impact statement and its findings.
9. Agricultural review and coordination. A town comprehensive plan and any amendments thereto, for a town containing all or part of an agricultural district or lands receiving agricultural assessments within its jurisdiction, shall continue to be subject to the provisions of article twenty-five-AA of the agriculture and markets law relating to the enactment and administration of local laws, ordinances, rules or regulations. A newly adopted or amended town comprehensive plan shall take into consideration applicable county agricultural and farmland protection plans as created under article twenty-five-AAA of the agriculture and markets law.
10. Periodic review. The town board shall provide, as a component of such proposed comprehensive plan, the maximum intervals at which the adopted plan shall be reviewed.
11. Effect of adoption of the town comprehensive plan.
- (a) All town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section.
 - (b) All plans for capital projects of another governmental agency on land included in the town comprehensive plan adopted pursuant to this section shall take such plan into consideration.
12. Filing of town comprehensive plan. The adopted town comprehensive plan and any amendments thereto shall be filed in the office of the town clerk and a copy thereof shall be filed in the office of the county planning agency.