

**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, October 8, 2014 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York:

MEMBERS PRESENT: Rich Kosmerl, Don Suttell, Andy Schnitzler, Paul Bijhouwer

MEMBERS ABSENT: Aaron Felber

OTHERS PRESENT: Jeremy Lons

The meeting was called to order at 7:00 P.M. by Chairman Bijhouwer.

APPROVAL OF MINUTES:

MOTION by Rich Kosmerl, seconded by Don Suttell and carried three yes votes to one abstention, to accept the minutes of the meeting of September 10, 2014. Andy Schnitzler abstained as he was not present at that meeting.

SITE PLAN REVIEW, SBL NO. 173.1-145.2, SUBMITTED BY JEREMY LONS, REQUESTING MODIFICATION OF EXISTING STRUCTURE TO BE USED FOR COMMERCIAL GIFT SHOP, SITE REMEDIATION AND DEVELOPMENT OF APPLE ORCHARD ON PROPERTY LOCATED AT 1289 GENESEE ROAD:

The applicant apologized for not submitting the Site Plan Application before work was begun. The ZEO had approved the lean-to additions to the sides of the existing building, as did the Wyoming County Building Department. He submitted copies of those approvals.

The Board reviewed the letter Mr. Lons had sent to the Town Board and the letters sent by this Board to Mr. Lons. (See Attachments A, B and C.) Mr. Lons stated that he had met with the A & A Railroad Board who was very receptive to his total plans, even indicating that the railroad might be interested in leasing space in the future, making it a stop or possibly moving the entire operation due to parking issues in the village.

In discussion:

1. The applicant has completed the planting of an apple orchard with a temporary fence surrounding it to protect the trees from wild life. The orchard is an agricultural use, permitted by right, and not within the scope of this Board or application.
2. This application is for Phase I of an extended project to use the existing building with the completed modifications for commercial use as a gift shop. The applicant will return with another site plan application when he is ready to begin the next phase.
3. The Site Plan Checklist was begun. See Attachment D for additional information.
4. It was determined that this is a Type I Action under SEQR 617.4 b (9) due to the property being adjacent to the A & A Railroad which is on the National Historic Record. A coordinated review will need to be completed.
5. The Board reviewed the zoning requirements, general provisions and supplemental regulations for the Highway Commercial district and found the site plan has no impediments. Gift shops are a use permitted by right.
6. The applicant was asked to determine if the A & A has an easement through his property or if the railroad owns the land that the tracks are on. The existing, side yard dimension is only non-conforming if the railroad owns the said piece of property.
7. The application cannot be considered complete at this time. The applicant will submit additional information as indicated on the Site Plan Checklist at the next meeting.
8. Upon completion of the Site Plan, it will be submitted to the Wyoming County Planning Board for recommendation and comment as the property is located on a State Highway.

WORK SESSION – REVIEW SECOND DRAFT OF TOWN OF ARCADE ROAD USE LAW:

1. The Secretary reported:
 - a. Both Larry Kilburn and Chris Lester confirmed that ESAL (Equivalent Single Axle Loads) is used by the State to determine what constitutes High Frequency Truck Traffic.
 - b. Chris Lester will find out if the DOT would notify companies applying for permits for one-time transport for overweight loads that they also need a permit from the Town. He stated that companies usually inform him.
 - c. All bridges in Wyo. Co. fall under the County Highway Dept. as well as most five foot and larger culverts.
 - d. Art Buckley had provided names of towns that might have Road Use Laws in the county. After contact by the Secretary, it has been found that Sheldon does not have a Road Use Law. NOTE: Since the meeting the Secretary has learned that Eagle also does not have a Road Use Law. Both towns used Road Use Agreements with the windmill companies.
 - e. The Secretary is awaiting information from Region 4 DOT as to whether there are any towns in Region 4 that have Road Use Laws.

2. Rich Kosmerl volunteered to research the guidelines for ESAL. The Board stated that eventually a firm such as Clark Patterson Lee will need to review what this Board proposes to prevent over kill.
3. The Board discussed the upcoming Fall Local Government Workshop to be held in Batavia. One of the sessions will deal with the implications of the recent Court of Appeals affirmation of the NY Supreme Court's finding that NY towns have the authority to ban oil and gas production activities, including hydrofracking, within their jurisdictions through the adoption of local zoning laws.

Rich Kosmerl and Andy Schnitzler will attend, with Town Board approval, and ask the Town Clerk to register them. This finding could also allow placing limitations that could be written into the Energy Development zoning laws for the Town of Arcade. Things such as partial bans in specific areas now appear to be allowable.

ADJOURNMENT:

There being no further business brought before the Board, the meeting adjourned at 9:20 P.M. upon **motion** by Don Suttell, seconded by Andy Schnitzler and unanimously carried. The next regular meeting of the Planning Board of the Town and Village of Arcade is scheduled for Wednesday, November 12, 2014, at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York.

Respectfully submitted,

Holly L. Almeter
Secretary

ATTACHMENT D – Arcade Planning Board – Minutes of Oct. 8, 2014

Applicant's Name Jeremy Lons

Permit No. N/A

Date October 8, 2014

SBL No. 173.-1-45.2

ARCADE PLANNING BOARD

WYOMING COUNTY PLANNING BOARD

SITE PLAN AND SPECIAL USE PERMIT APPROVAL CHECKLIST

The Planning Board of the Town and Village of Arcade and the Wyoming County Dept. of Planning and Development has identified the following as important elements which must be included if applicable when submitting site plans.

Failure to submit the requested documentation and information, if applicable, may cause either Board to consider the application incomplete and consequently table the proposed project until complete materials are submitted. For questions or assistance, please contact the TOWN Zoning Enforcement Officer at 716 496-7448 or the VILLAGE ZEO at 585-492-1111.

- 1. All application fees paid; completed, signed and submitted Certificate of Zoning Compliance; Site Plan Application and/or Special Use Application.

- 2. Tax map. If applicable: Agricultural Data Statement, Flood Hazard Permit. **Tax ID's are shown on the survey. Ag. statement has been submitted. Whether the property is in the flood plain needs to be determined. Both the applicant and the Board will locate the FEMA map on line. If the corner of the property is within the flood plain, applicant will need a Flood Hazard Permit.**

- 3. Property Survey prepared by a registered NY State surveyor.

- 4. Title of drawing, including name and address of applicant and person responsible for preparation of drawing; stamped by a registered NY State engineer or architect. **At the Board's discretion, they decided that the stamp is not necessary for the scale of this phase.**

- 5. North arrow, scale and date.

- 6. Boundaries of the property plotted to scale; location and dimensions of setbacks; exact size and location of all existing buildings/structures on property; elevation views; location of proposed building on lot drawn to scale with all dimensions. **Dimensions are needed from the corner of the building to Genesee Rd. and to Route 98.**

- 7. Existing watercourse and bodies of water. **Pond is shown. No additional waterways.**

- _X_ 8. Grading and drainage plan showing existing and proposed contours and location of any proposed storm sewer drains, culverts, retaining walls or fences; erosion and sediment control. **Shown on wetlands map. There is a ditch on west side of rail line, a culvert under Genesee Road which flows to a ditch along Route 98 and crosses to the east side of Route 98 into the creek.**
- ___ 9. Type of construction materials; exterior dimensions of all buildings; architectural design features. **Included with Wyo. Co. Building Permit except exterior surface treatment needs to be provided.**
- _N/A_ 10. Location of any outdoor storage and/or dumpster with type of screening to be used. **None**
- _N/A_ 11. Truck loading areas showing points of entry and exit from the site. **None**
- ___ 12. Parking facilities including size, arrangement and number of parking areas and surface treatment. **Applicant will provide parking plan, surface treatment of crushed limestone and sheet flow. Silt fencing needs to be indicated during grading process.**
- _N/A_ 13. Description of the method of sewage disposal & location of sewage disposal. **Don Roberts of the Wyo. Co. Building Dept., has indicated that for this phase of the project restroom facilities are not needed. They will be included with the construction of additional building in the next phase.**
- ___ 14. Pedestrian access if any; public and private pedestrian walkways. **Applicant will show this on parking area.**
- _N/A_ 15. Identification and description of the method, location, design and source of securing public or private potable water. **Don Roberts of the Wyo. Co. Building Dept., has indicated that for this phase of the project not needed. Will be included with the construction of additional building in the next phase.**
- ___ 16. Location, size and design of any and all proposed signs. (A separate sign permit is required in the Town and Village of Arcade available through the Zoning Officer.) **Applicant will add sign placement and general size and was given a copy of the sign regulations.**
- ___ 17. Location and proposed development of all open space and buffer areas, including existing vegetation cover. **Applicant will add lawn areas, bushes, etc. to plan.**
- ___ 18. Location and design of any and all outdoor lighting facilities. (Please refer to the Lighting Regulations in Zoning Law.) **Wall packs will be added to plan. Applicant was given copy of lighting regulations.**

- _N/A_ 19. General landscaping and/or screening plan with planting schedule.
- _N/A_ 20. Snow storage areas. **Property has plenty of acreage.**
- _N/A_ 21. Location of fire lanes and hydrants.
- _N/A_ 22. Identification of the location and amount of building area proposed for retail sales or similar commercial activity. **Building has 2137 sq. ft. including lean-tos. Applicant will indicate the size and location to be used for retail sales.**
- _X_ 23. Location and design of all energy distribution facilities, including electrical, gas and solar energy; any easement and deed restrictions. **Shown on survey.**
- _X_ 24. An estimated project construction schedule. **Except for parking area, construction is complete. The Town ZEO had previously approved the Cert. of Zoning Compliance and a building permit was issued by the Wyo. Co. Building Dept. Copies were provided.**
- _X_ 25. Record of application for, and approval status, of all necessary permits from State or County agencies or officials. **The Town ZEO had previously approved the Cert. of Zoning Compliance and a building permit were issued by the Wyo. Co. Building Dept. Copies were provided.**
- _X_ 26. Map or aerial view identifying adjacent parcels and land usages. **On survey.**
- _ 27. Appropriate State Environmental Quality Review form (SEQR) completed. (Short or Long Form, whichever is applicable. **Type I Action, 617.4 b (9). The Long Form will need to be completed.**



1289 Genesee Rd.
Arcade, New York
14009

Jeremy D. Lons
Ellie's Eden
74 Pearl Street, Suite 2
Springville, New York 14141
July 9, 2014

Attachment A
Pl. Bd. Oct. 8, 2014

Douglas Berwanger,
Town of Arcade
Supervisor
15 Liberty Street
Arcade, NY 14009

Dear Mr. Berwanger,

I am contacting you in regards to the front page article in this week's Arcade Herald concerning the discussion the Town Board held about the current site development at my property on the corner of Route 98 and Genesee. I believe there may have been a small disconnect between some members of various boards within Arcade and I would be more than willing to clarify some of the issues.

First, I would like to state that I have been very open with my intentions about our site development as I view this as a community project to help stimulate tourism within the town and educate the public on varying issues such as Forest Management Practices, Fruit Tree Orchard Development, Renewable Energies and the rich history surrounding my home town of Arcade.

To give you a little of my history, I have lived in the Village of Arcade the majority of my life and am graduate of the Pioneer High School, class of 2001. Since my graduation, I have received my B.S. in Engineering from the University at Buffalo and my M.B.A. from St. Bonaventure University. I am currently employed at the West Valley Demonstration Project as a Planning Engineer. I've been married to my wife Christina for 11 years and together we have 3 small children; Ellie, Eden and Elijah.

Several years ago, my wife and I began developing a plan to purchase some property and develop it into a self-pick fruit orchard with a small gift shop. After looking at several sites in the Town of Arcade, we purchased the location we are currently developing. Once we closed on the property we immediately contacted all the parties who may have an interest in our plans. This included the following:

Marvin Zielonka - Town of Arcade Zoning Officer
Patrick Marren - NYSDEC
George Ling - A&A Railroad - General Manager
Mark Messina - National Fuel
Alan Bekiel - Tri-County Drift Hoppers Snowmobile Club

Douglas Berwanger

July 9, 2014

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As we began talking with members of the community, we began realizing the potential that surrounded the A&A Railroad. We expanded our plans and began tailoring them around the railroad. We decided to add a much larger facility in addition to our original plans. The new facility was modeled after various historic rail stations while incorporating more modern architectural features. At this point, after a phone conversation with George Ling, George requested I attend a meeting with the A&A board of trustees to discuss my plans in more detail. I went to the meeting to inform the board of our intentions and work out the liability issues associated with the public crossing over the railroad at our particular site. From here the A&A board asked if there was a potential that this become a destination or possible loading/unloading point for passengers. My first concern was what impact this would have on local businesses within the village as my intent is not to compete with local business owners, but rather complement and add variety to help increase the overall tourism within the community. We briefly discussed the impacts on local businesses and some of the benefits, such as reducing traffic and parking issues associated with the A&A railroads current depot location. It was decided that this would be discussed in greater depth in the future as my plan progressed and became more definitive.

From here I began site development to begin land clearing and field preparations for the apple orchard. In addition, building permits and zoning permits were obtained to begin the expansion and renovation of the existing pole barn. Currently I have completed the renovations of the barn to cover my existing building and zoning permits. I recently submitted new building permits to increase the size of the barn with the future intent of reclassifying this as a commercial building. I do not plan on reclassifying the zone of this portion of my property for several years as I am waiting on the development of the orchard.

To date I have completed site visits with the NYSDEC, NYS Highway Department, Tri-County Drift Hoppers Snowmobile Club, National Fuel and the Wyoming County Code Enforcement Officer, Donald Roberts.

I've attached a copy of the plans for the first several phases of the project:

Phase 1: Apple Orchard Development

Phase 2: Gift Shop, Cider Pressing and Seasonal Dining Facility

Phase 3: Train Depot Construction

Phase 4: Watershed Management

Phase 5: Maple Syrup Commerce Development

Phase 6: Forest Management Program

As I mentioned to Mr. Zelonka, our primary goal is to develop and build an educational and tourist destination along the Arcade and Attica Rail Line. The first three phases will include an 1,100 tree self-pick apple orchard, cider pressing operation and train depot. The train depot will include a sit down restaurant, a fast serve restaurant, gift shop and lease space which may serve as either an apartment or possibly leased to a local company; A&A expressed interest in leasing space. We wish to include a venue for displaying the rich history of the A&A and a model train and toy store.

The exterior of the building will include a train platform for passengers to board and exit the train, in the event this is an avenue the A&A chooses to pursue, a caboose for serving various food items, a local commerce stand and an outdoor courtyard for dining purposes.

The other side of this is that we wish preserve the natural history of the local community in conjunction with educating the public on how to gather renewable energy from their own land. This is to include the following:

- Solar Powered Roof Panels
- Geo-Thermal Heating and Cooling Systems
- Wind & Water Power Electric Generation
- Forestry Management Programs
- Apple Orchard Management

I have mentioned this to all parties involved; I have no intentions of implementing this plan overnight. As a primary contractor for the Department of Energy, I am fully aware of the timetables that the various government agencies require to review, comment, and approve plans. I am under no illusion that things happen overnight and I am in no hurry as this is a project that my wife and I carry out in our spare time. I have found that the more time taken in the planning stages alleviates many headaches during execution. I wish to get the local community and government involved as much as possible and as early as possible, in order to adapt the plans to benefit everyone.

In the event that I can clear my schedule, I plan on attending the upcoming board meeting on July 14th. If I am unable to attend, please contact me with any questions, comments or ideas you may have. If you wish to visit the location, please contact me at your earliest convenience to arrange a site visit. I look forward to speaking with you.

Sincerely,

Jeremy D. Lons

Ellie's Eden
Office: (716) 942-4397
Cell: (716) 867-7367
Email: Jeremy.Lons@ElliesEden.com
Website: <http://www.ElliesEden.com>

Attachment B
Pl. Bd. - Oct. 8, 2014

PLANNING BOARD
TOWN and VILLAGE OF ARCADE
15 Liberty Street
Arcade, New York 14009
585 492-4685

Jeremy D. Lons
74 Pearl Street, Suite 2
Springville, New York 14141
August 14, 2014

Dear Mr. Lons:

At the meeting of Wednesday, August 13, 2014, the Planning Board of the Town and Village of Arcade reviewed your letter, dated July 9, 2014, to the Arcade Town Board and the information that you provided regarding your property at the corner of Route 98 and Genesee Road.

The ZEO, Marv Zielonka, admitted to the Town Board that he did not do his due diligence when reviewing your plans and the Town Board indicated that a Site Plan Review should have been completed by the Planning Board.

The Planning Board has the following concerns:

1. A portion of the property is within the Flood Plain and is also bounded by the A & A Railroad which is listed on the National Register of Historic Places. Both of these things require special handling;
2. Your plans constitute a major project that requires you to come before this Board for a Site Plan Review and being that you plan a retail business located on a state highway, this Board must refer it to the Wyoming County Planning Board;
3. The Site Plan also requires a NY State SEQR be completed.

Site Plan Application packets are available at the Town Clerk's office. You stated in your letter that you had received building and zoning permits. Please include copies of any approvals that you have received with your application. On your plot diagram, please indicate how many feet your fence is from Genesee Road, the west and north property lines and how many feet from the railroad tracks. Also include the front, back and sideline setbacks of the building and the improvements you have made to date. Please be aware that any improvements you make prior to Site Plan approval are at your own risk. We regret that the ZEO was negligent in his review of your plans.

Sincerely,

ARCADE PLANNING BOARD

Paul Bijhouwer, Chairman



Holly L. Almeter, Secretary

Attachment C
Pl. Bd. - Oct. 8, 2014

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

October 1, 2014

Jeremy D. Lons
74 Pearl Street
Suite 2
Springville, New York 14141

Dear Mr. Lons:

Your Site Plan Application, SBL No. 173.-1-45.2, requesting site remediation, development of an apple orchard and modification of existing structure for commercial use, is on the agenda of the Planning Board of the Town and Village of Arcade for the meeting of Wednesday, October 8, 2014, at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York.

We request your presence, please, to answer questions that may arise. If you are unable to attend this meeting, please call the secretary at 585 492-2328 as soon as possible.

The Planning Board thanks you for responding to our letter of August 14, 2014 and submitting the requested items. Please be advised that the application fee needs to be paid to the Town Clerk by October 8th. The SEQOR form that you have submitted is no longer valid. You can find the new form on line at www.dec.ny.gov. The form may also be obtained at the office of the Town Clerk.

We look forward to seeing you and completing the application process in a timely manner.

Sincerely,

ARCADE PLANNING BOARD

Holly Almeter

Holly L. Almeter
Secretary