

**Town of Ontario
Planning Board Minutes
January 12, 2010**

Present: Planning Board Members - Chairman, Eduard Kerkhoven, Stephen Leaty, Gerald Smith, Joseph Catalano, Michael Melino; Donna Burolla – Planning Board Clerk; Town Engineer – Kurt Rappazzo from MRB Group; Richard Williams - Deputy Attorney for the Town ; Jason Ruffell and Stephen Tobin - Town Councilmen; Edward Collins – Building Inspector and Code Enforcement Officer; and William Riddell – Director of Economic Development and Parks and Recreation.

Chairman Kerkhoven called the meeting to order at 7:30 p.m. and led the Pledge of Allegiance.

Public Hearings

6405 Furnace Road – Modified Site Plan

Mr. Raymond Cedruly d/b/a/ Furnace Mini Storage requested modified site plan approval to construct one 30 ft. x 100 ft. mini storage building (bldg. #6) and relocate an outside storage area 45 ft. x 170 ft. The property is owned by the applicant and zoned Industrial.

Mr. Cedruly explained this business is family owned and he would like to add another building for their mini storage business and relocate an outside storage area. He reviewed the planning review committee comments dated January 4, 2010 as follows:

Comment #1 – Mr. Cedruly advised the board the two additional storage buildings and the two professional office buildings will be eliminated from the plan. This area will remain green.

Comment #2 – Mr. Cedruly explained the drainage stating there are existing drains between two of the buildings connected to catch basins underground. The water flows to a ditch located to the rear of the property. Chairman Kerkhoven asked if Mr. Cedruly's engineer did an analysis that the ditch will hold the amount of runoff that is being increased with the additional building. Our town engineer will be checking those figures.

Mr. Cedruly replied that the analysis has been done and his property has very sandy soil with good runoff. Mr. Cedruly also advised that his engineer could not be present for tonight's meeting due to an emergency.

Comment #3 – The existing tree line will not be impacted with this development and remain as is.

Comment #4 – Mr. Cedruly reviewed an aerial view of the area showing the town's salt barn and facilities and also Mr. Odle's property. Chairman Kerkhoven advised him those buildings need to be placed on his map so that it displays where the neighboring structures are located. Mr. Cedruly agreed to that requirement stating there will be no impact to those properties.

Comment #5 (a-g) – Since these comments were directed at the additional storage buildings and two professional office buildings that will be removed from the plan, they were not addressed.

Chairman Kerkhoven asked what the new building will look like. Mr. Cedruly replied it will be the same color and utilize the same lighting as the existing buildings.

Mr. Cedruly reviewed the outside storage area stating he has previously been approved for outside storage and he is moving the 45 ft. x 170 ft. area. It has already been graveled and there will be no fence around it. He advises the customers it is their responsibility for security. Access has been provided for emergency vehicles between the buildings.

The new area has been graveled and all cleared with an existing buffer in place. The majority of storage consists of trailers, boats and RV's. There are no junk vehicles stored on the property. Mr. Cedruly confirmed that bollards will be put in place to define the area.

Chairman Kerkhoven confirmed with Mr. Cedruly that the only approval granted tonight is for the additional storage building and the outside storage area. Construction of any other buildings will need additional planning board review. Mr. Cedruly was in agreement.

**SEQRA RESOLUTION
PLANNING BOARD
TOWN OF ONTARIO
RE: Furnace Mini - Storage Site Plan Modification
6405 Furnace Road, Ontario New York
Tax Parcel Number: 63117-00-490841**

WHEREAS, Raymond Cedruly, has submitted an application for Site Plan Modification approval for the purpose of constructing a sixth mini-storage building and an additional gravel area of approximately 7,650 square feet; and

WHEREAS, this application is an unlisted action and has been subject to single agency review pursuant to SEQRA; and

WHEREAS, a short form EAF was submitted by the applicant, dated December 7, 2009 as part of the application materials;

NOW, THEREFORE, upon consideration by the Planning Board, of all written and oral submissions and testimony by the Applicant and following a public hearing on this matter, held on January 12, 2010, and the Planning Board having given this matter due deliberation and consideration; it is

RESOLVED that the Planning Board finds that the proposed action will not have any significant adverse impact on the environment, and accordingly, hereby grants a negative declaration pursuant the State Environmental Quality Review Act; based upon the following findings of fact:

FINDINGS OF FACT

1. This resolution is based upon the materials submitted by the applicant, including the Modified Site Plan prepared by Clarence Burkwit, P.E., dated November 10, 2009.
2. The proposed additions will not result in a significant increase in traffic.
3. Potential visual impacts associated with the additions are mitigated by the fact that both additions are located behind the existing buildings and the additional storage building will be constructed of similar materials to the existing buildings.
4. Potential stormwater runoff issues have been adequately addressed in the site plan.
5. The additional building proposed by the applicant will be used only for the same use as the current buildings, which do not produce significant noise, odor or other significant environmental impact.

The within Resolution was moved by Planning Board Member Gerald Smith, seconded by Planning Board Member Stephen Leaty, and voted upon by members of the Planning Board as follows:

Gerald Smith voted	Aye
Stephen Leaty voted	Aye
Joseph Catalano voted	Aye
Michael Molino voted	Aye
Eduard Kerkhoven vote	Aye

Adopted by the Planning Board on January 12, 2010.

**APPROVAL RESOLUTION
PLANNING BOARD
TOWN OF ONTARIO**

**RE: Furnace Mini - Storage Site Plan Modification
6405 Furnace Road, Ontario New York
Tax Parcel Number: 63117-00-490841**

WHEREAS, Raymond Cedruly, has submitted an application for Site Plan Modification approval for the purpose of constructing a sixth mini-storage building and an additional gravel area of approximately 7,650 square feet; and

WHEREAS, the Planning Board issued a negative declaration, pursuant to SEQRA, on January 12, 2010;

NOW, THEREFORE, upon consideration by the Planning Board, of all written and oral submissions and testimony by the Applicant and following a public hearing on this matter, held on January 12, 2010, and the Planning Board having given this matter due deliberation and consideration; it is

RESOLVED that the Planning Board hereby grants approval of the application, subject to the following conditions:

CONDITIONS OF APPROVAL

1. This resolution is based upon the materials submitted by the applicant, including the Modified Site Plan prepared by Clarence Burkwit, P.E., dated November 10, 2009.
2. The building architecture of the new structure is to be similar to the existing buildings.
3. This approval is only for the sixth mini-storage building and an additional gravel area of approximately 7,650 square feet. No approval is granted for the improvements set forth on the Modified Site Plan labeled as "proposed future" improvements and all such future improvements are subject to further approval by this Board.
4. Resolution of all matters set forth in the PRC Report dated January 4, 2010.

The within Resolution was moved by Planning Board Member Gerald Smith, seconded by Planning Board Member Joseph Catalano, and voted upon by members of the Planning Board as follows:

Gerald Smith voted	Aye
Stephen Leaty voted	Aye
Joseph Catalano voted	Aye
Michael Molino voted	Aye
Eduard Kerkhoven voted	Aye

Adopted by the Planning Board on January 12, 2010.

6254-6272 Furnace Road – Site Plan Modification (postponed from last month)

Mr. Andrew Hart, from Bergmann Associates, representing ABVI Goodwill requested modification to the Tops Market Site Plan to locate a 12 ft. x 20 ft. pre-manufactured structure on the north side of the Tops Supermarket building. The property is owned by Developers Diversified Realty (DDR) and zoned Business.

Mr. Hart introduced Mr. Matt Kells from DDR and also Mr. Tim Giarusso, representative from ABVI Goodwill.

Mr. Hart reviewed the proposal stating they have taken into consideration the board's comments from last month's meeting and are now seeking to locate a 12 ft. x 20 ft. pre-manufactured structure, with landscaping, on the north side of the Tops Supermarket building. This location has been confirmed to

comply with the zoning requirements, by the interpretation of the Building Inspector and Code Enforcement Officer regarding the front property line.

Also, since the last meeting an on-site meeting was held with the town engineer, Mr. Rappazzo to review the concerns about the entrance to the Tops Plaza from Furnace Road. It was agreed to remove some of the vegetation and the Tops exit sign will be moved further back to improve sight distance. Chairman Kerkhoven thanked the applicants for addressing that concern.

Mr. Hart reviewed the planning review committee comments dated January 4, 2010. He stated they did not feel a paved area for vehicles to park to drop off donations was warranted, since it will only take a minute and there will be an attendant on duty to assist customers. The planning board asked how a vehicle would make a donation and be able to turn around. Mr. Hart replied the vehicles could approach on the side of the Tops building and proceed past the structure and turn around behind Tops. Mr. Hart noted that there is a pond by the structure which does not allow a lot of room for a paved area.

Chairman Kerkhoven confirmed there would be no utilities or electricity or water connected to the structure and the attendant could use restroom facilities in Tops. Mr. Hart agreed. Chairman Kerkhoven also thanked the applicant for making the changes to the proposal and submitting photos of what the structure would look like.

Mr. Smith asked for more details about the building. Mr. Hart replied it will be 12 ft. x 20 ft. in size and the color will be off white with a neutral, earth tone roof. It will be located on either a paved area or gravel bed.

Mr. Melino asked if the attendant could park in the customer parking lot area of Tops to keep the lane open next to Tops for emergency access. Mr. Hart was in agreement.

Mr. Leaty was concerned with the traffic pattern and asked for an estimate of donations. Mr. Giarusso replied they receive about 60-70 donations a week, or about ten a day. Mr. Leaty asked that they include sight distance information on the map, as it may not meet AASHTO (American Association of State Highway and Transportation Officials) standards. He also recommended that signs be used to direct customers such as "No Parking Fire Zone" or "Two Minute Drop-Off Zone." Mr. Hart was in agreement.

Mr. Catalano said he felt the driveway around Tops was built for commercial use and did not like the proposal. He felt the building was substandard in size and there will be traffic problems. He said there is a lot of valuable space that could be rented within the Tops Plaza and this proposal does not result in the best visual view from Route 104.

Chairman Kerkhoven again reiterated he is appreciative of the changes made to the proposal, but agrees with Mr. Catalano's comments. He noted there are many empty store fronts within the plaza and on Rt. 104. He felt that Ontario should not settle for this type of building when ABVI Goodwill has built new structures in the Towns of Webster and Macedon. He would not vote to approve it.

Chairman Kerkhoven opened the application for public comments. Mr. James Switzer, member of the Wayne County Planning Board, said the County has reviewed the application and recommended denial on the basis that it may create traffic problems coming into the plaza. It is also a permanent structure and could result in a visual impact entering Wayne County on Rt. 104.

Mr. Hart noted that the structure does meet zoning requirements.

Mr. Catalano said the area around the Tops building was originally designed to be used by commercial trucks and now this would promote use by automobiles and could interfere with trucks exiting and entering.

Chairman Kerkhoven said the new proposal has not been reviewed by the Wayne County Planning Board and therefore the board cannot take action tonight. He requested the applicant postpone to the February 9,

2010 planning board meeting. By mutual agreement, the application was postponed to the February 9, 2010 planning board meeting.

1047 Willits Road – Preliminary and Final Site Plan (postponed from last month)

Mr. Fred Shelley, from Shelley Associates, representing Mr. and Mrs. Douglas Schimpf requested preliminary and final site plan approval to construct a single family residence. The property is owned by the applicant and zoned Residential – 2 (R-2).

Mr. Shelley reviewed the three major concerns the planning board had:

- (1) **The Future Barn.** The barn has been shown as a possible location on the map. He noted they are obligated to show the parcel the day that the field work is done.

- (2) **Business Activities.** Mr. Shelley stated a home occupation is permitted when there is a home on the parcel per zoning code and only 35% of the home can be devoted to a business. Accessory structures may be used for the home occupation. The process includes making an application to the town code enforcement officer for a home occupation. The approval may have conditions that the owner would need to follow. Mr. Shelley said Mr. Schimpf is aware of that requirement.

- (3) **Bergen's Drainage.** A construction driveway was built when Mr. Profetta (neighbor to the west) received a variance to construct a garage. That driveway will be removed in the spring since it does not serve any purpose for the applicant.
The property will be restored. Mr. Shelley also stated he has met with the Bergens and determined the low areas of standing water. He noted Mr. Schimpf will remove the driveway and correct any problems that he may have caused, but there may be some pre-existing wet areas on the Bergen property that are not the result of the driveway installation.

Mr. Shelley continued by reviewing the planning review committee comments of January 4, 2010:

- #1) – The site is depicted the day the field work is done, however the proposed barn has been located on the property. Mr. Shelley pointed out existing utility connections and current access to the property. He noted he would have to trespass on neighboring properties to locate their structures on the map and in the past if the residences have been separated by more than 500 feet they have not been shown. He could show the structures
by aerial view, or ask the neighbors for permission.

- #2) The security gate located 30 ft. north of the existing home has been constructed for security purposes and to keep people out.

- #3) The driveway lighting is for residential development and there is currently one light fixture. There are future bases for lamp lights.

Chairman Kerkhoven asked for clarification about the driveway. Mr. Shelley said there is a 30 ft. easement and the driveway runs down the center of that to the new home. There is a row of pines along the driveway. The driveway in questions is a construction driveway.

#4) Bergen Property. a) The construction driveway will be removed to possibly help alleviate the drainage problem as previously discussed. b) Mr. Profetta appeared before the zoning board and granted a variance for a garage and the zoning board advised him the driveway could not be used. At the present time no is using the driveway.

Mr. Shelley noted there was a “friendly” easement between Profetta and Schimpf to use the gravel drive, but now it cannot be used. c) The brush piles will be removed prior to issuing the C/O for the new home.

#5) The planning board did not want to discuss water calculations with Mr. Shelley.

#6) Mr. Shelley said there will be no fill within the flood plain boundary. Mr. Shelley noted that the piles of dirt near the driveway are not within the flood plain. The flood plain boundary on the map has been calculated using the flood insurance study. He reviewed the contours on the map. The finished floor elevation will be 357 ½ which is 1 ½ ft. above flood plain elevation.

Mr. Leaty asked Mr. Shelley to verify the flood plain location by shooting topography in the field and then outlining the elevations on the map, which would be more accurate.

Mr. Shelley agreed that revision could be made. He noted that it will actually take more area out of the flood plain.

Mr. Leaty asked if a determination has been made of how much acreage will be disturbed. Mr. Shelley said it will be up over an acre. Mr. Schimpf will submit a Notice of Intent (NOI), but not a Stormwater Pollution Prevention Plan (SWPP), since less than five acres will be disturbed. Mr. Leaty was concerned with that level of disturbance a SWPP may be required to insure the waterways are kept clean and mitigation measures have been taken with the development to keep the runoff clean. He felt the project should not be segmented and looked at as a whole.

Mr. Shelley said traditionally a SWPP is prepared to insure environmental concerns are addressed but the concerns can also be done on the map as erosion and sediment control measures and not submitted in a report.

Mr. Melino said the areas around the barn should be included in the erosion and sediment control plan, since the plan only shows around the perimeter of the home. Mr. Shelley agreed to include the barn area.

Mr. Melino requested grading in the area behind the Bergen property is included to make sure any problems with drainage are being fixed. He also asked to include information on the type of lights that are being installed on the bases near the driveway to make sure lighting emitted does not flood out onto the neighboring properties. He was not sure if the lights will be extended the entire length of the driveway.

Mr. Smith asked for more details about the flood plain. Mr. Shelley confirmed that removing the construction driveway will not completely address the drainage problems of the Bergen's. He stated that the Bergen property has some large trees and their root balls are pushing upwards. The driveway may be the cause of retaining some of the water, but the removal will not fix all of the drainage issues.

Mr. Leaty proceeded to clarify the process of the application. He stated that the planning board is looking at approving a single family home and the issues involved with it. The use portion and the comments they have heard do not effect the application. Chairman Kerkhoven said last month the board heard a lot of comments that have nothing to do with the application, but became aware of drainage issues and stockpiles of materials which are related to the planning board review. He asked Edward Collins, Building Inspector and Code Enforcement Officer to attend tonight's meeting to address the issue of home occupation.

Mr. Catalano confirmed with Mr. Shelley that if the driveway was removed the property will be returned to the way it was prior to installation. Mr. Shelley said that is correct and he did not know of any drainage concerns prior to the driveway installation.

Chairman Kerkhoven asked if the board members had received a letter from Mr. Thad Smith, 7011 Slocum Road. Board members replied they have all received it. The letter will become part of the record.

Chairman Kerkhoven opened the application for public comments.

Mr. Tom Bergen, 1042 Willits Road, said he was happy to learn that the problem with the driveway is being addressed, but still has a concern with the size of the barn being constructed. He is concerned that it may be rented or used for Mr. Schimpf's business. He questioned how it could be determined if the equipment coming in and out is used for his business or being used to construct the barn or home. Mr. Bergen asked if we have permitted hours that construction can be done on a home. Chairman Kerkhoven replied we do have a Noise Ordinance and complaints can be sent to the Code Enforcement Officer regarding noise and also use of the barn as a business.

Mr. Thad Smith, 7011 Slocum Road, said he would hope that the planning board would look at the whole picture with this application and not just the construction of the home. Chairman Kerkhoven asked for definition on where his property adjoins Mr. Schimpf's property. Mr. Smith pointed to his property on the smart board and said there is a 30 ft. access easement from Willits Rd. to his property. He noted there is a business being run on the site with 15-20 trucks on the property and Mr. Schimpf has caused a lot of problems by moving earth.

Chairman Kerkhoven asked Mr. Edward Collins, Building Inspector and Code Enforcement Officer to review home occupation. Mr. Collins advised that a home occupation is allowed in the district with five conditions. No more than 35% of the dwelling or accessory structure may be used. He read the following from Chapter 150-42 of the Zoning Regulations: #3) "All activity, including storage, is conducted entirely within the dwelling unit or accessory building, and no special construction or structural alteration is required." #4) "The use shall not display or create outside the building any evidence of the home occupation, except that one nonilluminated sign not more than three square feet may be posted; and #5) "No offensive traffic, noise, odor, smoke, dust, heat, glare or electrical disturbance shall be produced by the home occupation."

Mr. Collins also advised that when the permit for the barn was issued there was a condition on the permit that states that no business is to be run out of the barn. If the neighbors feel there is a violation of the condition, they must call him and let him know about it. A Cease and Desist Order would then be issued.

Chairman Kerkhoven said he believes a home occupation is geared for the professional office such as an attorney or a hair dresser who wants to work from their home. Mr. Williams said the definition of a home occupation is any use customarily conducted entirely within a dwelling. There is no outside visibility of the business, except for a small sign.

Mr. Thad Smith, 7011 Slocum Road, asked what will be done with the rest of the property. He has a concern with all of the dirt that has been moved and how the creek will be impacted. He felt Mr. Schimpf is already running a business on the property.

Mr. Melino said the planning review committee comments asked for more information regarding the entire site and if nothing is to be done on the other side of Mill Creek that should be stated on the plan. Mr. Leaty said if nothing is shown on the plan, then no construction should take place. He was more concerned that the scope of the entire project and stormwater management control be addressed. Mr. Leaty felt that there should be a statement that the data shown on the plan and the answers to the questions that are being asked are truthful.

Mrs. Lori Eaton-Smith, 7011 Slocum Rd., said she would like it noted that Mr. Schimpf has been made aware of the home occupation conditions and he needs to abide by them.

Mr. Leaty said that is the reason why Mr. Collins is here tonight to make sure everyone knows the rules.

Mr. Leaty said he would like it clarified about the 35% home occupation use of a dwelling. Mr. Collins stated the zoning regulations read 35% of a dwelling or an accessory structure may be used, however the building permit issued for the barn stated that no business of any kind is to be operated.

Mr. Leaty asked if 35% of the proposed barn, which is roughly 4,000 sq. ft. could be used for a business. Mr. Williams said it is a code interpretation question. The code states that 35% of a dwelling can be used and then it also states all activity is conducted entirely within the dwelling or accessory building. He feels the wording could be clearer, but the 35% may be able to be split between a dwelling and accessory building.

Chairman Kerkhoven asked Mr. Collins about the excavation that has taken place on the property. Mr. Collins said he would do a site inspection on the property tomorrow (1/13/10).

Chairman Kerkhoven advised the public if they have problems with a business being operated on the property they should contact Mr. Collins. He asked if there were any additional public comments and no one responded. He proceeded to close the public hearing and the application was mutually postponed to the February 9, 2010 planning board meeting.

Informal Discussions

RC Raceways – 1683 Route 104

Mr. Dan Caswell and Mr. Paul Peters reviewed a concept map with the board regarding construction of a building to operate a radio controlled facility located at 1682 Route 104.

Mr. Caswell said his engineer is out of town tonight. He explained the original concept had a pond in the front yard and his engineer determined that it would not be large enough to handle the runoff so an additional pond has been designed in the rear of the property. Mr. Caswell pointed out the parking layout noting there is an overflow area for trailers in the rear of the property.

Chairman Kerkhoven asked about outside storage. Mr. Caswell said there will be a 30 ft. x 60 ft. building with electricity on the site for their equipment to maintain the property. There will also be a 5 ft. x 10 ft. building for the wind spires.

Chairman Kerkhoven advised the applicants the town has regulations for wind turbines. Mr. Williams advised the regulations pre-date this type of wind spire but added there are regulations for height limit, fall zone, and ice buildup. The review of the wind spires would be included with the SEQR review of the application. Mr. Caswell said the wind spire units are 30 – 50 ft. high and 36 – 42 inches wide. Chairman Kerkhoven noted that there are ice storms in our area and it is up to the applicants to provide information to the board about the wind spires.

Mr. Caswell said he also has 3-D renderings of the building.

Chairman Kerkhoven said the next step for the applicants is to make a formal site plan application and it will then be scheduled for a public hearing.

Cardella Enterprises – 1775 Ridge Road

Mr. Al LaRue, from McMahon Engineers & Surveyors, reviewed a proposal with the board to convert a project for 41 townhomes into an affordable family project. The density would increase, but he did not know the quantity since a market survey has not been done. He estimated there would be between 68-70 units. The units would be first and second story apartments with 1, 2,3, and 4 bedrooms, depending on what the market study determines. The property is on 6.23 acres.

The families that would be residing there would fall into the income of \$25,000 - \$28,000 for a family of 4-5. The residents would have to be income qualified each year and if they do not qualify, they would have to move. The project is mandated to be professionally maintained and managed.

The proposal includes sidewalks, curbing, and a children's playground. Each unit will have a basement for the mechanicals and storage. There will be no garages and parking will be in front of the buildings. There will be one entrance from Ridge Road. The project will comply with parking (including a visitor's area), drainage, and green space.

Chairman Kerkhoven was concerned with the density and the quality of life issues. Mr. LaRue said they are very stringent with the requirements, since the project is government funded. He explained the difference between subsidized housing and affordable. He said subsidized means the residents are seeking to supplement the rental costs and affordable housing means the developer receives funding to lessen the development costs so the rent is less.

Chairman Kerkhoven asked if this type of project can be re-sold. Mr. LaRue said he has never seen that done since the managing partners involved usually have it as part of their mission. The project could possibly be sold as townhomes in the future.

Chairman Kerkhoven was concerned with how it will look five years from now and asked if there were similar projects like this in our area. His major concern is the density issue and the amount of people residing on the property. Mr. LaRue said a project is located in Canandaigua with 168 units called Brookside and it is an affordable family project that is about five years old. It is located on Buffalo Street Extension.

Mr. Smith asked if background checks are done on the tenants. Mr. LaRue said he did not know the answer to that question. Mr. Smith said he also had concerns with dumpster locations, parking layout, and density.

Mr. Catalano asked if a high crime rate develops, if it would be noncompliant. Mr. LaRue replied that not-for-profits do not allow that to happen.

Mr. Leaty said they may want to look at aligning the driveway with the school driveway and that intersection may need a traffic light. Mr. LaRue replied that the driveways would actually work better if they were spaced 60- 80 feet apart which eliminates confusion.

Chairman Kerkhoven informally polled the board:


- Mr. Melino – He liked the idea, but was concerned with the density, and the additional traffic interacting with the school.
- Mr. Smith – He had serious concerns with the project, and was much more in favor of the previous townhome development.
- Mr. Kerkhoven – He had concerns about the density
- Mr. Leaty – He said he was 50/50 with the project and wanted to see the concerns mentioned tonight addressed.
- Mr. Catalano – He was generally in favor of the project, and wanted to see development of the property. He would like to see a plan that shows how it all lays out and meets the town codes.

Minutes

Mr. Catalano moved to approve the minutes as presented dated December 8, 2009 and Mr. Smith seconded. Vote:

Joseph Catalano	Aye
Gerald Smith	Aye
Eduard Kerkhoven	Aye
Stephen Leaty	Aye
Michael Melino	Aye

Mr. Smith moved to adjourn the meeting at 9:30 p.m.



Donna Burolla, Clerk
Planning Board