

Planning Board Meeting

July 1, 2020 Minutes

Chairman Kozakiewicz called the tele-conference meeting to order at 7:00pm.

Roll call:

Al Kozakiewicz — present

Fred Franko — present

Lynne Delesky — present

Karen Dutcher — present

Mike Voght — present

Matt Cooper — present

Rick Gilmour — present

Burt Wilson — present (alternate for [P2020-04 NLH](#))

Attendees: Zoning Board of Appeals Chair Douglas H. Purcell, Jr.

Tentative agenda items

1. [A referral letter received from ZBA Chair Douglas H. Purcell, Jr.](#) regarding application [Z2020-05 Nathan Littauer Hospital](#).
2. Needed changes to the Zoning Ordinance to address ambiguities and address shortcomings that have become apparent since its adoption.
3. Planning needed to update Comprehensive Plan.
4. Review completeness of application [P2020-07 Manzer](#) which requires an application for § 239-m review by Fulton County Planning before the Planning Board can act.
5. Review completeness of application [P2020-08 Brennan](#)

Proceedings

Chair Al Kozakiewicz discussed the letter from ZBA Chair Douglas H. Purcell, Jr. He turned the floor over to Douglas Purcell.

Douglas Purcell started by saying the Planning Board members should be familiar with the application since the Planning Board had met on the Site Plan Review portion (P2020-04) previously. He reviewed the Nathan Littauer plans for micro-clinic. He reminded the Planning Board that the combined parcel is zoned Conservation district. He noted that the Use Table for Conservation district formerly allowed municipal use based on a Site Plan Review, but now very little is allowed in Conservation district by right. Approved by right are fence, forestry use, open space recreation use, outdoor wood boiler or furnace, patio, porch, portable structure, public park, public utility, satellite dish, shed, sign, and solar panel array. He said that by Site Plan Review, the things that are allowed are forestry use, golf course, major public utility use, manufacturing, public recreation, and tourist attraction. He said that “micro clinic” doesn’t fall into any of those categories. He reminded the Board that the Town Board combined the two parcels at the last Town Board meeting. When he looks at the code, the current use at the town hall is grandfathered. He noted, however, that the Zoning Ordinance says that the prohibited use can not be expanded, enlarged, or moved. He then reviewed the criteria for granting a Use Variance. He noted that one of the questions was whether or not the hardship was self-created. He concluded it was, because the Town owns the parcel and the Town created the Zoning Ordinance. He noted that another question was whether the applicant can realize a reasonable financial return. He reminded the Planning Board that while the applicant was Nathan Littauer Hospital, the owner is the Town of Caroga and it is the owner that has to justify the Use Variance. Since manufacturing is an allowed use, he said he had to conclude that there was a way

for the town to realize a financial return. His final point was whether the hardship relating to the property was unique and does not apply to the neighborhood. He observed that it was Town Hamlet on the adjacent parcels to both the north and south. Under Town Hamlet, this would be approved by Site Plan Review. He further noted that these are the only two parcels [one combined parcel now] on the west side of State Highway 10 that are adjacent to the road and are zoned Conservation district. He said it raises the question as to whether or not those two parcels should have been zone Town Hamlet at the time of the Zoning Ordinance was enacted. He then discussed the language in the SEQR as to conformance with the Comprehensive Plan. He concluded that the change in use was consistent with the Comprehensive Plan in that the Comprehensive Plan specifies that this sort of activity should be at the Town Center. Thus, his question to the Planning Board is their recommendation as to what the Zoning Board of Appeals can do or should do or whether this zoning was an oversight or whether it is consistent with the Comprehensive Plan.

Chair Al Kozakiewicz discussed the history of the Use Table. The table was created de novo. He speculated as to the history of the zoning of the town hall parcel. He said the zoning decision was an oversight on the Planning Board's part. He said that regardless of what is done with the Nathan Littauer application, that's a use the town wants in that place. He said that, when you listen to Supervisor Scott Horton at the town board meetings, potential plans for capital projects include building on land that is zoned Conservation. He said we need to fix this going forward for a new town hall, highway garage, cell tower. He solicited comments from fellow Planning Board members Burt Wilson (alternate), Lynne Delesky, and Mike Voght who were present when the current Zoning Ordinance was created.

Burt Wilson said that the intention at the time was to have everything move downtown to the Town Center. Part of that was anticipating putting the town hall down in that area. The goal was any type of business such as the Nathan Littauer clinic would be downtown in Town Center district, so that it would bring people to the center of town versus going even as far out of the center as the golf course.

Chair Al Kozakiewicz said Robyn Burgess led him to believe this area was either in APA Hamlet or Caroga's Town Center district. He asked Planning Board Clerk James Long (and Planning Board member at the time of the Planning Board passed the new Zoning Ordinance to the Town Board) if he remembered.

ZBA Chair Douglas Purcell responded to that query by saying APA districts don't line up with town districts.

Clerk James Long also responded by agreeing with ZBA Chair Douglas Purcell and adding that Town Center district doesn't extend very far towards the town hall: it only goes to the intersection with County Highway 112.

Mike Voght said it needs to be addressed. He said we need to move the highway garage away from Irving Pond outlet (Canada Lake inlet). He said we need to take a hard look at this.

Chair Al Kozakiewicz said the Planning Board would do that tonight — at least as an outline. He said that was the long-term fix.

Karen Dutcher asked where Town Center district was located.

Chair Al Kozakiewicz said it started at roughly at the intersection of State Highway 10 and State Highway 29A, north to either Vrooman's or just north of Vrooman's.

Clerk James Long said the northern end was at Five Corners (intersection of Morey Road, London Bridge Road, County Highway 112, and State Highway 10).

Lynne Delesky asked if the Planning Board was in agreement that the Planning Board wants to help Nathan Littauer Hospital put its clinic where it proposes to do so?

Chair Al Kozakiewicz responded that Nathan Littauer Hospital is going there is that it is a joint venture: they need to build on land the town controls. The parcel has sewer, water, power, parking. If the town said go to the Town Center, there may not be a parcel available.

ZBA Chair Douglas Purcell offered to bring up the Zoning map for attendees to see.

Chair Al Kozakiewicz consented.

Clerk James Long assisted, noting that Town Center comes to Five Corners, as previously stated, but that it comes a few hundred feet shy of the new Dollar General being built.

ZBA Chair Douglas Purcell said there were properties for sale and for lease on that Town Center strip, one of which would be the old Outdoorsman Restaurant. He said it is not fair to say (as was said previously) that there are no properties available in the Town Center.

Chair Al Kozakiewicz countered that he didn't think there were any parcels available at the price Nathan Littauer Hospital would be getting from the Town of Caroga. He thought it was something like one dollar.

Rick Gilmour added that this is where the existing clinic is. He asked if there had been discussion of having the highway department in Town Center.

Chair Al Kozakiewicz said no. There was talk of a combined highway garage and town office, by the cell tower.

Rick Gilmour said he didn't think there was any reason why the Town Center couldn't expand in the future, because it isn't that big, but this a thought for another day. The Planning Board is trying to get the new Nathan Littauer clinic up and running. He said the proposed small building would be a modest expense and Nathan Littauer could possibly move to Town Center at a later date.

Clerk James Long reminded the Planning Board that the cell town lands had to go through alienation process with the New York State legislature and this was pushed through by then Town Board member Val Scribner. That would have to be done for any of these other uses.

Chair Al Kozakiewicz said getting highway garage or new town hall through budget process is even more nontrivial, meaning that it has a snowball's chance in hell. He said let's focus on the immediate issue of the Nathan Littauer Hospital application and the ZBA.

Chair Al Kozakiewicz asked what the brown district was on the Zoning map.

ZBA Chair Douglas Purcell said it was town Hamlet district.

Chair Al Kozakiewicz said that brown town Hamlet district plus purple Town Center district was APA Hamlet.

ZBA Chair Douglas Purcell said APA Hamlet went beyond that.

Clerk James Long said that the town Hamlet district is not connected with APA Hamlet, despite unfortunately having the same name. It is a different area and a different shape.

Clerk James Long said that Fred Franko wants to know if he can join in. (Fred Franko had recused himself on the Nathan Littauer application, but not the rest of the agenda.)

Chair Al Kozakiewicz said yes.

ZBA Chair Douglas Purcell said he was drawing around the golf course in the GoToMeeting presentation.

Chair Al Kozakiewicz said, after locating the town hall parcel, that he would want to rezone that town Hamlet district

Lynne Delesky asked that instead of making it town Hamlet, why couldn't the Planning Board consider adding that use back into the Conservation district as it was in the prior zoning ordinance.

Chair Al Kozakiewicz said the problem with that is that it applies to all Conservation districts in the town. He didn't think that was something the town would want. He said that Robyn Burgess suggested creating an overlay district. That overlay could have much smaller boundaries. That way the Zoning Ordinance would prevent those uses in other parts of the Conservation district. He asked Lynne Delesky if that made sense.

Lynne Delesky said yes. She then asked what the process would be for an overlay.

Chair Al Kozakiewicz said it was the same as any other amendment to the Zoning Ordinance. It still has to go through the APA.

Chair Al Kozakiewicz reminded Fred Franko that Burt Wilson was filling in for all Nathan Littauer Hospital application matters.

Fred Franko said: so noted.

Chair Al Kozakiewicz said he didn't know what ZBA Chair Douglas Purcell wanted to hear from the Planning Board.

ZBA Chair Douglas Purcell said he'd heard enough discussion to know that he'd opened up a can of worms, which is what he was afraid would happen. He said he was hearing that the Planning Board does want to protect Conservation zones. The Planning Board thinks the Nathan Littauer Hospital application is a good idea, but from his position as a ZBA member, he doesn't think it is a good idea for the ZBA to approve a Use Variance because the criteria have not been met. Thus, for this project to proceed, either change the zoning of the town hall parcel, do an overlay, change the Use Table which clearly is not what the Planning Board wants to do because there is too much Conservation zone where the town doesn't want other things going on, or finally, possible governmental exemption from zoning ordinances.

Chair Al Kozakiewicz said the governmental exemption would not work, because the Planning Board created the Zoning Ordinance with the Town of Caroga subject to the Zoning Ordinance, and it was approved.

ZBA Chair Douglas Purcell said he appreciated that feedback.

Fred Franko asked if the ZBA could not approve the Use Variance.

ZBA Chair Douglas Purcell said, from his standpoint, yes that was true. He asked Fred Franko if he'd read the letter that ZBA Chair Douglas Purcell wrote to Planning Board Chair Al Kozakiewicz. (Fred Franko had not.) He reiterated that the town created the problem with the zoning ordinance change. Thus, it is self-created. The financial justification wasn't there because manufacturing was allowed. Finally, he didn't see the uniqueness of the parcel relative to other areas. This is how he would present the application to his fellow ZBA members.

Fred Franko said it did appear to him that the parcel was unique.

ZBA Chair Douglas Purcell said that's why he raised the question as to whether it should have been zoned town Hamlet to begin with. Based on what he's heard so far, maybe, maybe not.

Fred Franko said again that it was unique.

ZBA Chair Douglas Purcell said that was why he raised the question to the Planning Board as to whether this Conservation parcel is something the town wants to protect.

Chair Al Kozakiewicz said it is already built up and has been built up for seventy years, at least. He saw nothing to protect there. It is either asphalt or a patch of grass right now.

ZBA Chair Douglas Purcell said he would cite another Use Variance: Bellinger and docks. If those parcels are not zoned properly, it is not up to the Zoning Board of Appeals to change that. It is up to the Planning Board to make those changes.

Chair Al Kozakiewicz said correct and that's one of the other things on his agenda tonight.

ZBA Chair Douglas Purcell said that because once the ZBA starts making and approving Use Variances, because it sounds like a good idea, the Bellingers thought it was a good idea to put a 200-foot dock. Everybody is saying something sounds like a good idea. He said the sad part is that he knows the proposed Nathan Littauer micro-clinic is a good idea. He concluded by saying he thought he got what he needed from the Planning Board.

Chair Al Kozakiewicz asked if we were to have a discussion with the town, given that it looks like a Use Variance is problematic, if we pursue rezoning of at least that parcel of land, and go through that process with the Adirondack Park Agency, however long it takes, and the Town Board says yes, we'll do whatever it takes, that still means a delay. Based upon what he heard from Robyn Burgess, all that would happen with denying the Use Variance is delaying the inevitable. If it was pretty good chance that it was inevitable, would that alter the Zoning Board of Appeals way of thinking about it?

ZBA Chair Douglas Purcell said no. The ZBA has two choices. The ZBA either approves it or rejects it. If ZBA approves it, they've opened up another whole can of worms. That was just his opinion as one ZBA member.

Fred Franko said he could make a convincing argument for the Use Variance based on the actual verbiage in the Zoning Ordinance, but that remains to be seen.

ZBA Chair Douglas Purcell said it would be an interesting next meeting of the ZBA, then.

Chair Al Kozakiewicz said the calendar is not working in the applicant's favor, owing to the section 239-m reviews that have to happen. It's going to drag along anyway.

Clerk James Long reviewed the timing if ZBA granted a Use Variance, Fulton County Planning rules affirmatively on the section 239-m review, and then a ZBA Public Hearing is scheduled, and then the section 239-m review of the Site Plan Review in August, so it is still months out.

Chair Al Kozakiewicz said he wanted to hear from Burt Wilson, Rick Gilmour, Matt Cooper, Karen Dutcher, and Lynne Delesky, one at a time. Do we want to tell Nathan Littauer Hospital to find a piece of property in the Town Center district? Or, do we want to try to fix this on the town-owned property where it has been proposed. If it is the latter, he said he would do the work on an amendment to the Zoning Ordinance.

Lynne Delesky asked to go first. She said it is very important to maintain the Conservation district as it is. She also thinks it is a unique situation in that like Fred Franko said, there's already asphalt there. There's already a building there. It's not like putting up a building on the golf course. There is a case that it is unique. We should try to accommodate them in the way that makes the most sense: for example, an overlay. She didn't think it was best to tell Nathan Littauer Hospital to find a parcel in the Town Center.

Rick Gilmour said that because it was existing business to begin with and it is not a big building, it is a small building. He said we need the service in Caroga. We have to do whatever we can to keep them here.

Karen Dutcher asked if this was being built with a grant.

Fred Franko said they are funding it themselves, but may be getting funding from somewhere.

Karen Dutcher said she'd heard that the building all over the county is because of grants.

Clerk James Long reminded the Planning Board that there are two separate legal entities: the Nathan Littauer Foundation and then there's a separate corporation, the Nathan Littauer Hospital. The Nathan Littauer Foundation is a 501(c)(3) and raises monies.

Burt Wilson said that all hospitals get some state and federal funding. He went on to address Al's question. He knows that a considerable amount of time was spent creating the Comprehensive Plan. What he took away was the Comprehensive Plan was to move as much as possible to the Town Center. He understands the arguments for keeping it up at the town hall parcel, but he could see plots of property with people making similar arguments. He said he understands that the clinic has been there all this time. He said that whether it is a larger or smaller building that they are going to put there, it is still larger than the municipal building is now: it is taking up more of that property. He does support Nathan Littauer Hospital in having it on that parcel, but he asks how many times are we going to go against our own Comprehensive Plan. He said maybe we need to reconsider what that is.

Chair Al Kozakiewicz said that's also part of the agenda for tonight. He said it's time to update it. He asked Karen Dutcher if she had anything else to say.

Karen Dutcher said Town Center has so much emptiness. She said it might bring more people to that area. She said there's the Outdoorsman, the laundromat. She's sure they are willing to sell those properties, if they're approached.

Rick Gilmour said all these places have issues with septic, water, and everything else. He said town hall has no problem with that issue.

Fred Franko asked if he might speak.

Chair Al Kozakiewicz said he may bring information.

Fred Franko said if Nathan Littauer Hospital changes the physical address, with their reimbursement for medical treatment, they stand to lose 15% of the money that they get paid for treatments or medical services. He said that is why they want to stay on the same site. He said that was part of the financial cost used to justify the Use Variance application with the ZBA.

Burt Wilson said it is a separate building so the 911 address should be different and they will have to be assigned one, so their physical address will change anyway. He said buildings can't have the same address.

Chair Al Kozakiewicz said that he had not heard from Matt Cooper.

Matt Cooper thought it is a good idea and Nathan Littauer Hospital provides a service to the town. He wondered, in keeping the Conservation area, what happens if the town barn moves. He asked: Is the Planning Board going try to change stuff there as well?

Chair Al Kozakiewicz said that's far enough down the road. He said this discussion has taken a lot longer than he thought it would and we may curtail the follow-on meeting somewhat. He said that if we limit our action to just the parcel, it is no harm, because it just fills in a gap between two hamlet areas. He said he would bet dollars for donuts that it was originally zoned conservation

because it was all part of land that came from Cyrus Durey in the 1920's or whenever the golf course was donated.

Mike Voght asked Fred Franko how big the area where the proposed clinic would be.

Fred Franko said he thought the entire parcel with school and leach field was about 0.45 acres.

Clerk James Long corrected that estimate and said the total was 1.7 acres in the combined parcel.

Mike Voght said he didn't think that little bit of the parcel was going to make a huge impact on what is already there.

Chair Al Kozakiewicz said it sounds like he has the go-ahead to work with the Town Board and Robyn Burgess to find the most expedient way to do the least amount required to make this project happen on the site it is proposed on. He said if it was rezoning the two parcels, creating an overlay, or whatever, he'd start tomorrow.

Clerk James Long reminded Chair Al Kozakiewicz that the Town Board has already combined the two parcels into a single parcel.

Chair Al Kozakiewicz said that "brings this discussion to a close and Doug good riddens and don't let the door kick you in the back on the way out".

ZBA Chair Douglas Purcell said he wanted to thank Chair Al Kozakiewicz [Kozakiewicz, PB Chair] and the Planning Board for indulging him. He bid the Planning Board a good evening.

Chair Al Kozakiewicz said there were three potential changes to the Zoning Ordinance. He said he would not bundle them in with the town hall property issue. He said the first one is if the Use

Table does not allow a use, because it is blank, once that variance is granted no Special Use Permit or Site Plan Review is required. His opinion is that if it is required where it is allowed, it should be required where it is not allowed. He'd like to edit the Zoning Ordinance so that if it is required in other districts, and a Use Variance is required, then a Special Use Permit or Site Plan Review would be required. He asked if that was clear or if anybody disagreed with that.

Burt Wilson suggested the Planning Board contact the county [Planning] to get an opinion.

Chair Al Kozakiewicz said he'd seen this in other municipalities. He would call Scott Henze. He said the second one was storage containers being used as sheds. He said they are an eyesore. He thinks and he said some members of the Town Board think we should not be allowing them to be used as structures. He said that temporary storage is fine.

Karen Dutcher said she believed they were eyesores.

Rick Gilmour said there should be a limit on them.

Burt Wilson said they could have one, but would have some sort of siding. He said they are built far better than any shed people presently have on their property. He said they do have a good use. He agrees, that in their natural state, they are not appealing.

Chair Al Kozakiewicz said let's table the lengthy discussion on this. He said he would work on some language. He said the third is to figure out least permissive way to do the docks in R10 district if you have shoreline. He's thinking our dock regulation regulates square footage.

Clerk James Long interjected that the square footage was removed from the final zoning ordinance.

Chair Al Kozakiewicz said then that needs to be addressed. He said he wouldn't rush that one either. He said last thing is he had an epiphany. He said on the Dollar General project he went into that without any thoughts about what the Planning Board should be looking at. He said if it had been him alone, Dollar General would have built a typical steel box. He said Fred Franko saved our bacon. He said Fred Franko knew enough to ask the questions and make the suggestions, because of his expertise, that helped the Planning Board get through that project. He said maybe the Planning Board could have obtained something better, but it was way better than what the applicant originally proposed. He doesn't want that expertise to come and go as Planning Board members come and go. He's thinking of some kind of design document. He's going to ask Fred Franko to talk about it in more detail. He is open to Town Center only, the whole town, or commercial development. He's thinking that Town Center commercial development is what the Planning Board really cares about. He's thinking about standards that are quasi-binding, i.e., really strong suggestions. He said the town should be expecting these when the Planning Board does a Site Plan Review: things like materials, lighting, lighting fixtures, colors, style. He said we want to see Adirondack style buildings. He asked Fred Franko to develop these standards. He then asked Fred Franko to speak.

Fred Franko said any number of different municipalities do that to control the development. He said some are more stringent than others. He said he'd worked both in Saratoga and Cooperstown and they are nasty, vicious, and you don't have a lot of wiggle room. He said other locales realize that variety is the spice of life and he finds those to be a little more effective. He said then there

were ones that were like the wild west, like Central Avenue Schenectady, Albany, where there's anything and everything and there's no thought or rhyme or reason to it at all. He said those design standards are not rocket science. He would suggest we get some people together and start taking a look at other ordinances. He said we bullied the shit out of Dollar General, without anything to stand on. He said we had some give and take. He said you can punch up any municipality and see what their design standards are. He said some of it is landscaping, planting trees, sidewalks, and street lighting.

Chair Al Kozakiewicz said that he'd like to suggest if anyone wants to help Fred Franko, let him know. He asked Fred Franko to give the Planning Board an idea he's going. He said some were concerned about not making it so restrictive that it takes peoples property rights away. He wants Fred Franko to help create a document that provides guidance.

Fred Franko said it is very commonly done. He said he would love to have some help with it. He said if you look at various well known towns, chances are they have some kind of design standards. He said you want to encourage development but, you don't want it to go unchecked.

Burt Wilson said he'd like to help.

Chair Al Kozakiewicz asked if there were any objections.

Rick Gilmour said it was a good idea.

Karen Dutcher said it sounds great.

Burt Wilson said absolutely.

Chair Al Kozakiewicz asked Fred Franko to proceed, with at least Burt Wilson helping out.

Karen Dutcher said she'd help.

Chair Al Kozakiewicz said give us an update no later than the beginning of August.

Chair Al Kozakiewicz said it is time for the Comprehensive Plan to be updated. He said the Planning Board could do it. He noted that it was a lot of work. He said the Planning Board could ask the Town Board to establish a committee.

Motion: Burt Wilson moved to accept the minutes from the June 3, 2020 meeting as published. Lynne Delesky seconded the motion. All were in favor.

Burt Wilson asked Fred Franko who would contact whom.

Fred Franko said to contact him using the email address on the group email messages. He suggested those who wanted to participate start gathering documents from other municipalities.

Lynne Delesky asked about [P2020-07 Manzer](#) and Brennan applications.

Chair Al Kozakiewicz said one requires a Fulton County Planning section 239-m review and both need a Public Hearing.

Clerk James Long asked the Chair and the Planning Board to tell him if the [P2020-07 Manzer](#) application was complete.

Chair Al Kozakiewicz said [P2020-07 Manzer](#) was complete.

Karen Dutcher said she had a question on [P2020-07 Manzer](#) as to whether the applicant was bringing in a storage container. She said it was a very large unit for the size of the property.

Rick Gilmour said he thought it might be too high a percentage lot coverage.

Karen Dutcher said the shed is already there.

Chair Al Kozakiewicz said it was supposed to be a shed.

Clerk James Long asked the Planning Board its preferences for delivery of certain documents.

Chair Al Kozakiewicz said he wants the Planning Board members to receive paper copies of any large format drawings, e.g., D size, by US Mail. He said everything else is fine electronically.

Chair Al Kozakiewicz asked Clerk James Long to schedule the [P2020-06 Jung & Gale](#) lot line amendment for August 5.

Clerk James Long reviewed the tentative agenda for August 5: [P2020-06 Jung & Gale](#), [P2020-07 Manzer](#), [P2020-08 Brennan](#), and anything else.

Motion: Rick Gilmour moved to adjourn. Burt Wilson seconded the motion. The meeting adjourned at 8:32pm.